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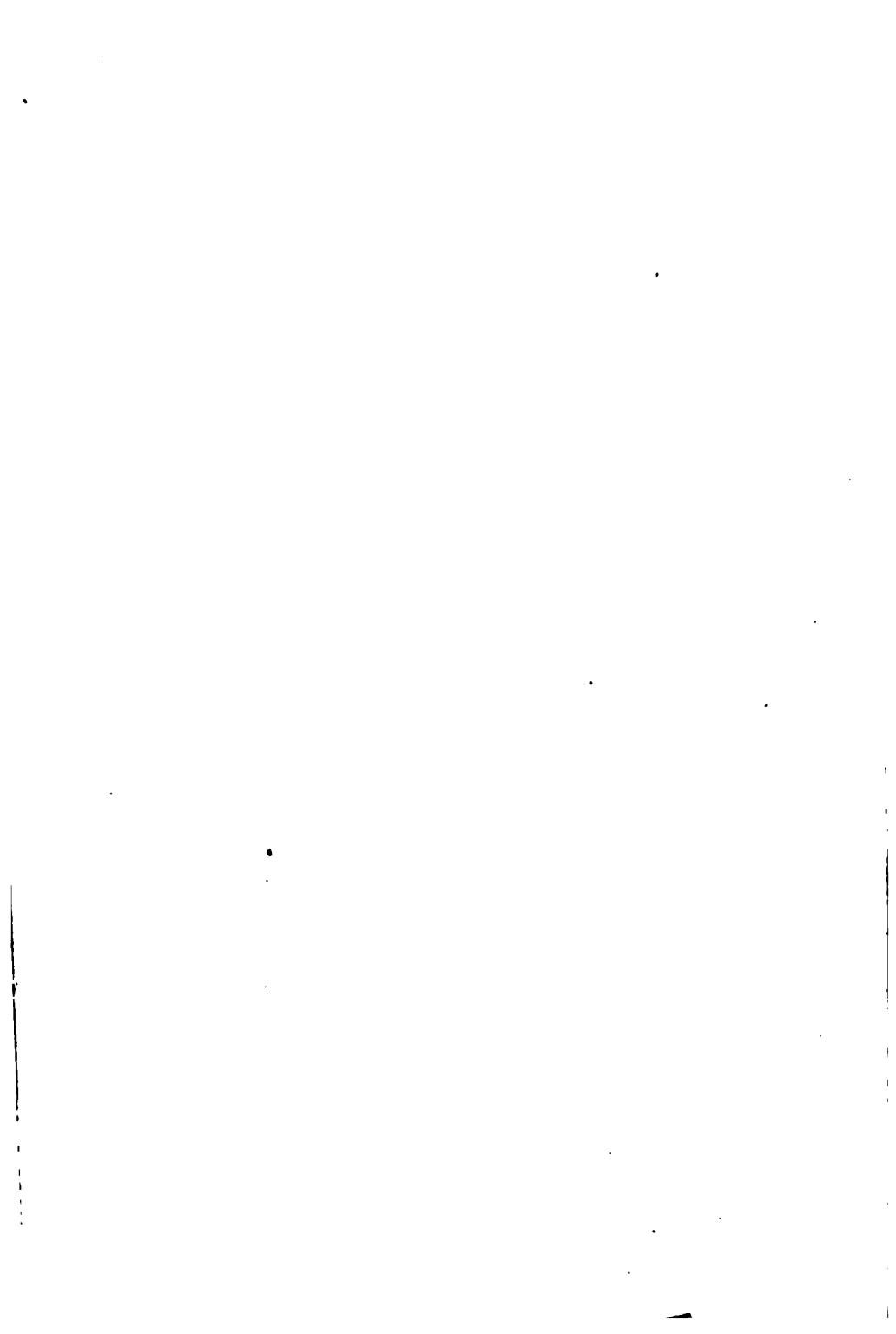
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**COURTS, CRIMINALS, AND  
THE CAMORRA**



# **COURTS, CRIMINALS AND THE CAMORRA**

**BY**

**ARTHUR TRAIN**

**Formerly Assistant District Attorney, New York County**

**NEW YORK**

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## **COURTS**



## CHAPTER I

### THE PLEASANT FICTION OF THE PRESUMPTION OF INNOCENCE

THERE was a great to-do some years ago in the city of New York over an ill-omened young person, Duffy by name, who, falling into the bad graces of the police, was most incontinently dragged to head-quarters and "mugged" without so much as "By your leave, sir," on the part of the authorities. Having been photographed and measured (in most humiliating fashion) he was turned loose with a gratuitous warning to behave himself in the future and see to it that he did nothing which might gain him even more invidious treatment.

Now, although many thousands of equally harmless persons had been similarly treated, this particular outrage was made the occasion of a vehement protest to the mayor of the city by a certain member of the judiciary, who pointed out that such things in a civilized community were shocking beyond measure, and called upon the mayor to remove the commissioner of police and all his staff of deputy commissioners for openly violating the law which they were sworn to uphold. But, the commissioner of police, who has sometimes enforced the penal statutes in a way that has made him un-

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popular with machine politicians, saw nothing wrong in what he had done, and, what was more, said so most outspokenly. The judge said, "You did," and the commissioner said, "I didn't." Specifically, the judge was complaining of what had been done to Duffy, but more generally he was charging the police with despotism and oppression and with systematically disregarding the sacred liberties of the citizens which it was their duty to protect.

Accordingly the mayor decided to look into the matter for himself, and after a lengthy investigation came to the alleged conclusion that the "mugging" of Duffy was a most reprehensible thing and that all those who were guilty of having any part therein should be instantly removed from office. He, therefore, issued a pronunciamiento to the commissioner demanding the official heads of several of his subordinates, which order the commissioner politely declined to obey. The mayor thereupon removed him and appointed a successor, ostensibly for the purpose of having in the office a man who should conduct the police business of the city with more regard for the liberties of the inhabitants thereof. The judge who had started the rumpus expressed himself as very much pleased and declared that now at last a new era had dawned wherein the government was to be administered with a due regard for law.

Now, curiously enough, although the judge had demanded the removal of the commissioner on the ground that he had violated the law and been guilty of tyrannous and despotic conduct, the mayor had

ousted him not for pursuing an illegal course in arresting and "mugging" a presumptively innocent man (for illegal it most undoubtedly was), but for inefficiency and maladministration in his department.

Said the mayor in his written opinion:

"After thinking over this matter with the greatest care, I am led to the conclusion that as mayor of the city of New York I should not order the police to stop taking photographs of people arrested and accused of crime or who have been indicted by grand juries. That grave injustice may occur the Duffy case has demonstrated, but I feel that it is not the taking of the photograph that has given cause to the injustice, but the inefficiency and maladministration of the police department, etc."

In other words, the mayor set the seal of his official approval upon the very practice which caused the injustice to Duffy. "Mugging" was all right, so long as you "mugged" the right persons.

The situation thus outlined is one of more than passing interest. Whatever the merely political outcome may be, and it may be far-reaching, a sensitive point in our governmental nervous system has been touched and a condition uncovered that sooner or later must be diagnosed and cured.

For the police *have* no right to arrest and photograph a citizen unconvicted of crime, since it is contrary to law. And it is ridiculous to assert that the very guardians of the law may violate it so long as they do so judiciously and do not molest the Duffys. The trouble goes deeper than that.

The truth is that we are up against that most deli-

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cate of situations, the concrete adjustment of a theoretical individual right to a practical necessity. The same difficulty has always existed and will always continue to exist whenever emergencies requiring prompt and decisive action arise or conditions obtain that must be handled effectively without too much discussion. It is easy while sitting on a piazza with your cigar to recognize the rights of your fellow-men, but if you were starving on the high seas in an open boat—! You may assert most vigorously the right of the citizen to immunity from arrest without legal cause, but if you saw a seedy character sneaking down a side street at three o'clock in the morning, his pockets bulging with jewelry and silver—! *Que voulez vous, m'sieu?* Would you have the policeman on post insist on the fact that a burglary had been committed being established beyond peradventure before arresting the suspect, who in the meantime would undoubtedly escape? Of course, the worthy officer sometimes does this, but his conduct in that case becomes the subject of an investigation on the part of his superiors. In fact, the rules of the New York police department require him to arrest all persons carrying bags in the small hours who cannot give a satisfactory account of themselves. Yet there is no such thing under the laws of the State as a right "to arrest on suspicion." No citizen may be arrested under the statutes unless a crime *has actually been committed*. Thus, the police regulations deliberately compel every officer either to violate the law or to be made the subject of charges for dere-

liction of duty. A confusing state of things, truly, to a man who wants to do his duty by himself and by his fellow-citizens!

The present author once wrote a book dealing with the practical administration of criminal justice, in which the unlawfulness of arrest on mere "suspicion" was discussed at length and given a prominent place. But when the time came for publication that portion of it was omitted at the earnest solicitation of certain of the authorities on the ground that as such arrests were absolutely necessary for the enforcement of the criminal law a public exposition of their illegality would do infinite harm. Now, as it seems, the time has come when the facts, for one reason or another, must be faced. The difficulty does not end, however, with "arrest on suspicion," "the third degree," "mugging," or their allied abuses. It really goes to the root of our whole theory of the administration of the criminal law. Is it possible that on final analysis we may find that our enthusiastic insistence upon certain of the supposedly fundamental liberties of the individual has led us into a condition of legal hypocrisy vastly less desirable than the frank attitude of our continental neighbors toward such subjects?

The Massachusetts Constitution of 1785 concludes with the now famous words: "To the end that this may be a government of laws and not of men." That is the essence of the spirit of American government. Our forefathers had arisen and thrown off the yoke of England and her intolerable system of penal gov-

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ernment, in which an accused had no right to testify in his own behalf and under which he could be hung for stealing a sheep. "Liberty!" "Liberty or death!" That was the note ringing in the minds and mouths of the signers of the Declaration and framers of the Constitution. That is the popular note to-day of the Fourth of July orator and of the Memorial Day address. This liberty was to be guaranteed *by laws* in such a way that it was never to be curtailed or violated. No mere man was to be given an opportunity to tamper with it. The individual was to be protected at all costs. No king, or sheriff, or judge, or officer was to lay his finger on a free man save at his peril. If he did, the free man might immediately have his "law"—"have the law on him," as the good old expression was—for no king or sheriff was above the law. In fact, we were so energetic in providing safeguards for the individual, even when a wrong-doer, that we paid very little attention to the effectiveness of kings or sheriffs or what we had substituted for them. And so it is to-day. What candidate for office, what silver-tongued orator or senator, what demagogue or preacher could hold his audience or capture a vote if, when it came to a question of liberty, he should lift up his voice in behalf of the rights of the majority as against the individual? The Republican party—"The Grand Old Party of Liberty!" The Democratic party—"The Party of Liberty!" The Socialist-Labor party—"of Liberty." "Liberty forever!"

Accordingly in devising our laws we have provided in every possible way for the freedom of the citizen from all interference on the part of the authorities. No one may be stopped, interrogated, examined, or arrested unless a crime has been committed. Every one is presumed to be innocent until shown to be guilty by the verdict of a jury. No one's premises may be entered or searched without a warrant which the law renders it difficult to obtain. Every accused has the right to testify in his own behalf, like any other witness. The fact that he has been held for a crime by a magistrate and indicted by a grand jury places him at not the slightest disadvantage so far as defending himself against the charge is concerned, for he must be proven guilty *beyond any reasonable doubt*. These illustrations of the jealousy of the law for the rights of citizens might be multiplied to no inconsiderable extent. Further, our law allows a defendant convicted of crime to appeal to the highest courts, whereas if he be acquitted the people or State have no right of appeal at all.

Without dwelling further on the matter it is enough to say that in general the State constitutions, their general laws, or penal statutes provide that a person who is accused or suspected of crime must be *presumed innocent* and treated accordingly until his guilt has been affirmatively established in a jury trial; that meantime he must not be confined or detained unless a crime has in fact been committed and there is at least reasonable cause to believe that he has

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committed it; and, further, that if arrested he must be given an immediate opportunity to secure bail, to have the advice of counsel, and must in no way be compelled to give any evidence against himself. So much for the *law*. It is as plain as a pikestaff. It is printed in the books in words of one syllable. So far as the law is concerned we have done our best to perpetuate the theories of those who, fearing that they might be arrested without a hearing, transported for trial, and convicted in a king's court before a king's judge for a crime they knew nothing of, insisted on "liberty or death." They had had enough of kings and their ways. Hereafter they were to have "a government of laws and not of men."

But the unfortunate fact remains that all laws, however perfect, must in the end be administered by imperfect men. There is, alas! no such thing as a government of laws and not of men. You may have a government *more* of laws and *less* of men, or vice versa, but you cannot have an auto-administration of the Golden Rule. Sooner or later you come to a *man*—in the White House, or on a wool sack, or at a desk in an office, or in a blue coat and brass buttons—and then, to a very considerable extent, the question of how far ours is to be a government of laws or of men depends upon *him*. Generally, so far as he is concerned, it is going to be *of man*, for every official finds that the letter of the law works an injustice many times out of a hundred. If he is worth his salary he will try to temper justice with mercy. If he is human he will endeavor to accomplish justice *as he*

*sees it* so long as the law can be stretched to accommodate the case. Thus, inevitably there is a conflict between the theory of the law and its application. It is the human element in the administration of the law that enables lawyers to get a living. It is usually not difficult to tell what the law is; the puzzle is how it is going to be applied in any individual case. How it is going to be applied depends very largely upon the practical side of the matter and the exigencies of existing conditions.

It is pretty hard to apply inflexibly laws over a hundred years old. It is equally hard to police a city of a million or so polyglot inhabitants with a due regard to their theoretic constitutional rights. But suppose in addition that these theoretic rights are *entirely* theoretic and fly in the face of the laws of nature, experience, and common sense? What then? As the missionary said, "The cannibals are coming behind, there is a lion in front, there are sharks in the water, I can't swim anyway—what in hell *am* I to do?" What is a police commissioner to do who has either got to make an illegal arrest or let a crook get away, who must violate the rights of men illegally detained by outrageously "mugging" them or egregiously fail to have a record of the professional criminals in his bailiwick? He does just what all of us do when we are "up against it,"—he "takes a chance." But in the case of the police the thing is so necessary that there ceases practically to be any "chance" about it. They have got to prevent crime and arrest criminals. If they fail they

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are out of a job, and others more capable or less scrupulous take their places. The fundamental law qualifying all systems is that of necessity. You can't let professional crooks carry off a voter's silverware simply because the voter, being asleep, is unable instantly to demonstrate beyond a reasonable doubt that his silver has been stolen. You can't permit burglars to drag sacks of loot through the streets of the city at 4 A. M. simply because they are presumed to be innocent until proven guilty. And if "arrest on suspicion" were not permitted, demanded by the public, and required by the police ordinances, away would go the crooks and off would go the silverware, the town would be full of "leather snatchers" and "strong-arm men," respectable citizens would be afraid to go out o' nights, and liberty would degenerate into license. That is the point. We Americans, or at least the newer ones of us, have a fixed idea that "liberty" means the right to steal apples from our neighbor's orchard without interference. Now, somewhere or other, there has got to be a switch and a strong arm to keep us in order, and the switch and arm must not wait until the apples are stolen and eaten before getting busy. If we come climbing over the fence sweating apples at every pore, is Farmer Jones to go and count his apples before grabbing us?

The most presumptuous of all presumptions is this "presumption of innocence." It really doesn't exist, save in the mouths of judges and in the pages of law books. Yet as much to-do is made about it as

if it were a living legal principle. Every judge in a criminal case is required to charge the jury in form or substance somewhat as follows: "The defendant is presumed to be innocent until that presumption is removed by competent evidence." . . . "This presumption is his property, remaining with him throughout the trial and until rebutted by the verdict of the jury." . . . "The jury has no right to consider the fact that the defendant stands at the bar accused of a crime by an indictment found by the grand jury." Shades of Sir Henry Hawkins! Does the judge expect that they are actually to swallow *that*? Here is a jury sworn "to a true verdict find" in the case of an ugly looking customer at the bar who is charged with knocking down an old man and stealing his watch. The old man—an apostolic looking octogenarian—is sitting right over there where the jury can see him. One look at the plaintiff and one at the accused and the jury may be heard to mutter, "He's *guilty*,—all right!"

"Presumed to be innocent?" Why, may I ask? Don't the jury and everybody else know that this good old man would never, save by mistake, accuse anybody falsely of crime? Innocence! Why, the natural and inevitable presumption is that the defendant is *guilty*! The human mind works intuitively by comparison and experience. We assume or presume with considerable confidence that parents love their children, that all college presidents are great and good men, and that wild bulls are dangerous

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animals. We may be wrong. But it is up to the other fellow to show us the contrary.

Now, if out of a clear sky Jones accuses Robinson of being a thief we know by experience that the chances are largely in favor of Jones's accusation being well founded. People as a rule don't go rushing around charging each other with being crooks unless they have some reason for it. Thus, at the very beginning the law flies in the face of probabilities when it tells us that a man accused of crime must be presumed to be innocent. In point of fact, whatever presumption there is (and this varies with the circumstances) is all the other way, greater or less depending upon the particular attitude of mind and experience of the individual.

This natural *presumption of guilt* from the mere fact of the charge is rendered all the more likely by reason of the uncharitable readiness with which we believe evil of our fellows. How unctuously we repeat some hearsay bit of scandal. "I suppose you have heard the report that Deacon Smith has stolen the church funds?" we say to our friends with a sententious sigh—the outward sign of an invisible satisfaction. Deacon Smith after the money-bag? Ha! ha! Of course, he's guilty! These deacons are always guilty! And in a few minutes Deacon Smith is ruined forever, although the fact of the matter is that he was but counting the money in the collection-plate. This willingness to believe the worst of others is a matter of common knowledge and of historical and literary record. "The evil that men do lives

after them—" It might well have been put, "The evil men are said to have done lives forever." However unfair, this is a psychologic condition which plays an important part in rendering the presumption of innocence a gross absurdity.

But let us press the history of Jones and Robinson a step further. The next event in the latter's criminal history is his appearance in court before a magistrate. Jones produces his evidence and calls his witnesses. Robinson, through his learned counsel, cross-examines them and then summons his own witnesses to prove his innocence. The proceeding may take several days or perhaps weeks. Briefs are submitted. The magistrate considers the testimony at great length and finally decides that he believes Robinson guilty and must hold him for the action of the grand jury. You might now, it would perhaps seem, have some reason for suspecting that Robinson was not all that he should be. But no! He is still presumed in the eyes of the law, and theoretically in the eyes of his fellows, to be as innocent as a babe unborn. And now the grand jury take up and sift the evidence that has already been gone over by the police judge. They, too, call witnesses and take additional testimony. They likewise are convinced of Robinson's guilt and straightway hand down an indictment accusing him of the crime. A bench warrant issues. The defendant is run to earth and ignominiously haled to court. But he is still presumed to be innocent! Does not the law say so? And is not this a "government of laws"? Finally, the district attor-

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ney, who is not looking for any more work than is absolutely necessary, investigates the case and begins to prepare it for trial. As the facts develop themselves Robinson's guilt becomes more and more clear. The unfortunate defendant is given any opportunity he may desire to explain away the charge, but to no purpose.

The district attorney knows Robinson is guilty, so does everybody else, including Robinson. At last this presumably innocent man is brought to the bar for trial. The jury scan his hang-dog countenance upon which guilt is plainly written. They contrast his appearance with that of the honest Jones. They know he has been accused, held by a magistrate, indicted by a grand jury, and that his case, after careful scrutiny, has been pressed for trial by the public prosecutor. Do they really presume him innocent? Not much! They presume him *guilty*. And if by any chance Robinson puts in any defence, they require him, as a practical matter, to prove himself innocent. "So soon as I see him come through dot leetle door in the back of the room, then I *know* he's guilty!" as the foreman said in the old story. What good does the presumption of innocence, so called, do for the miserable Robinson? None whatever—save perhaps to console him in the long days pending his trial. But such a legal hypocrisy could never have deceived anybody. How much better it would be to cast aside all such cant and frankly admit that the attitude of the continental law toward the man under arrest is founded upon common sense and the

experience of mankind. If he is the wrong man it should not be difficult for him to demonstrate the fact. At any rate circumstances are against him, and he should be ready to explain them away if he can.

The fact of the matter is, that in dealing with practical conditions, police methods differ very little in different countries. The authorities may perhaps keep considerably more detailed and obvious "tabs" on us in Germany and Russia than in the United States, but if we are once caught in a compromising position we experience about the same treatment wherever we happen to be. In France (and how the apostles of liberty condemn the iniquity of the administration of criminal justice in that country!) the suspect or undesirable receives a polite official call or note, in which he is invited to leave the locality as soon as convenient. In New York he is arrested by a plain-clothes man, yanked down to Mulberry Street for the night, and next afternoon is thrust down the gangplank of a just departing Fall River liner. Many an inspector (without mentioning names) has earned unstinted praise (even from the *New York Evening Post*) by "clearing New York of crooks" or having a sort of "round-up" of suspicious characters whom, after proper identification, he has ejected from the city by the shortest and quickest possible route. Yet in the case of every person thus arrested and driven out of the town he has undoubtedly violated constitutional rights and taken the law into his own hands. What crimes are committed in the name of law, O Liberty!

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What redress can a penniless tramp secure against a stout inspector of police able and willing to spend a considerable sum of money in his own defence, and with the entire force ready and eager to get at the tramp and put him out of business? He swallows his pride, if he has any, and ruefully slinks out of town for a period of enforced abstinence from the joys of metropolitan existence. Yet who shall say that, in spite of the fact that it is a theoretic outrage upon liberty, this cleaning out of the city is not highly desirable? One or two comparatively innocent men may be caught in the ruck, but they generally manage to intimate to the police that the latter have "got them wrong" and duly make their escape. The others resume their tramp from city to city, clothed in the presumption of their innocence.

Since the days of the Doges or of the Spanish Inquisition there has never been anything like the morning inspection of arrested suspects at the New York police head-quarters.\* One by one the unfortunate persons arrested during the previous night (although not charged with any crime) are pointed out to the assembled detective force, who scan them from beneath black velvet masks in order that they themselves may not be recognized when they meet again on Broadway or the darker side streets of the city. Each prisoner is described and his character and past performances are rehearsed by the inspector or head of the bureau. He is then measured, "mugged," and, if lucky, turned loose. What

\* Now abolished.

does his liberty amount to or his much-vaunted legal rights if the city is to be made safe? Yet why does not some apostle of liberty raise his voice and cry aloud concerning the wrong that has been done? Are not the rights of a beggar as sacred as those of a bishop? Yea, verily, and the statutes say plainly and have said plainly for years that no one shall be arrested *unless a crime has been committed*.

One of the most sacred rights guaranteed to those of us who can afford to pay for it under the law is that of not being compelled to give evidence against ourselves or to testify to anything which might degrade or incriminate us. "I'se not compelled to discriminate against myself!" as the old darkey, who knew his rights very well, said. Now, this is all very fine for the chap who has his lawyer at his elbow or has had some similar previous experience. He may wisely shut up like a clam and set at defiance the tortures of the third degree. But how about the poor fellow arrested on suspicion of having committed a murder, who has never heard of the legal provision in question, or, if he has, is cajoled or threatened into "answering one or two questions"? Few police officers take the trouble to warn those whom they arrest that what they say may be used against them. What is the use? Of course, when they testify later at the trial they inevitably begin their testimony with the stereotyped phrase, "I first warned the defendant that anything which he said would be used against him." If they did warn him they probably whispered it or mumbled it so that he didn't hear what they

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said, or, in any event, whether they said it or not, half a dozen of them probably took him into a back room and, having set him with his back against the wall, threatened and swore at him until he told them what he knew, or thought he knew, and perhaps confessed his crime. When the case comes to trial the police give the impression that the accused quietly summoned them to his cell to make a voluntary statement. The defendant denies this, of course, but the evidence goes in and the harm has been done. No doubt the methods of the inquisition are in vogue the world over under similar conditions. Everybody knows that a statement by the accused immediately upon his arrest is usually the most important evidence that can be secured in any case. It is a police officer's *duty* to secure one if he can do so by legitimate means. It is his *custom* to secure one by any means in his power. As his oath, that such a statement was voluntary, makes it *ipso facto* admissible as evidence, the statutes providing that a defendant cannot be compelled to give evidence against himself are practically nullified.

The beneficent provisions to be found in most codes of criminal procedure, and particularly in that of the State of New York, while highly valuable under some circumstances, are of no avail to a defendant who has never heard of them. These are to the effect that the police must convey a message free of charge to the family or lawyer of every person arrested, that each prisoner is entitled as matter of law to a reasonable delay before being compelled to submit to a

hearing, that he has the right to the services of counsel, and the further right to have a stenographic report of the evidence taken before the magistrate. The ordinary petty criminal is arrested without a warrant, often illegally, hustled to the nearest police court, put through a species of examination composed largely of invective and assertion on the part of the officer, found guilty, and "sent away" to the Island, without lawyer, adjournment, or notice to his family. "Off with his head!"—just like that! He isn't presumed to be innocent at all. The "cop" tells him, "to shut his mouth or he will knock his block off." "I caught this feller doin' so and so! He's a lazy loafer, judge," he says to the magistrate. The latter takes a look at the defendant, concludes that the officer is right, and off goes the prisoner to the workhouse.

When it comes to the more important cases the accused is usually put through some sort of an inquisitorial process by the captain at the station-house. If he is not very successful at getting anything out of the prisoner the latter is turned over to the sergeant and a couple of officers who can use methods of a more urgent character. If the prisoner is arrested by head-quarters detectives, various efficient devices to compel him to "give up what he knows" may be used—such as depriving him of food and sleep, placing him in a cell with a "stool-pigeon" who will try to worm a confession out of him, and the usual moral suasion of a heart-to-heart (!) talk in the back room with the inspector.

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This is the darker side of the picture of practical government. It is needless to say that the police do not usually suggest the various safeguards and privileges which the law accords to defendants thus arrested, but the writer is free to confess that, save in exceptional cases, he believes the rigors of the so-called third degree to be greatly exaggerated. Frequently in dealing with rough men rough methods are used, but considering the multitude of offenders, and the thousands of police officers, none of whom have been trained in a school of gentleness, it is surprising that severer treatment is not met with on the part of those who run foul of the criminal law. The ordinary "cop" tries to do his duty as effectively as he can. With the average citizen gruffness and roughness go a long way in the assertion of authority. Policemen cannot have the manners of dancing-masters. The writer is not quarrelling with the conduct of police officers. On the contrary, the point he is trying to make is that in the task of policing a big city, the rights of the individual must indubitably suffer to a certain extent if the rights of the multitude are to be properly protected. We can make too much of small injustices and petty incivilities. Police business is not gentle business. The officers are trying to prevent you and me from being knocked on the head some dark night or from being chloroformed in our beds. Ten thousand men are trying to do a thirty-thousand-man job.

The struggle to keep the peace and put down crime is a hard one anywhere. It requires a strong arm

that cannot show too punctilious a regard for theoretical rights when prompt decisions have to be made and equally prompt action taken. The thieves and gun men have got to be driven out. Suspicious characters have got to be locked up. Somehow or other a record must be kept of professional criminals and persons likely to be active in law-breaking. These are necessities in every civilized country. They are necessities here. Society employs the same methods of self-protection the world over. No one presumes a person charged with crime to be innocent, either in Delhi, Pekin, Moscow, or New York. Under proper circumstances we believe him guilty. When he comes to be tried the jury consider the evidence, and if they are pretty sure he is guilty they convict him. The doctrine of reasonable doubt is almost as much of a fiction as that of the presumption of innocence. From the time a man is arrested until arraignment he is quizzed and interrogated with a view to inducing him to admit his offence or give some evidence that may help convict him. Logically, why *should* not a person charged with a crime be obliged to give what explanation he can of the affair? Why *should* he have the privilege of silence? Doesn't he owe a duty to the public the same as any other witness? If he is innocent he has nothing to fear; if he is guilty—away with him! The French have no false ideas about such things and at the same time they have a high regard for liberty. They merely recognize the fact that there is a point at which the interest of the public and its liberty is bound to conflict with the interest of the

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individual and *his* freedom to do as he likes. And we instinctively recognize this, too, just as everybody does. We merely cheat ourselves into thinking that *our* liberty is something different from French liberty because we have a lot of laws upon our statute books that are there only to be disregarded and would have to be repealed instantly if enforced.

Take, for instance, the celebrated provision of the penal laws that the failure of an accused to testify in his own behalf shall not be taken against him. Such a doctrine flies in the face of human nature. If a man sits silent when witnesses under oath accuse him of a crime it is an inevitable inference that he has nothing to say—that no explanation of his would explain. The records show that the vast majority of accused persons who do not avail themselves of the opportunity to testify are *convicted*. Thus, the law which *permits* a defendant to testify in reality *compels* him to testify, and a much-invoked doctrine of liberty turns out to be a privilege in name only. In France or America alike a man accused of crime sooner or later has to tell what he knows—or take his medicine. It makes little difference whether he does so under the legalized examination of a “juge d’instruction” in Paris or under the quasi-voluntary interrogations of an assistant district attorney or police inspector in New York. It is six of one and half a dozen of the other if at his trial in France he remains mute under examination or in America refrains from availing himself of the privilege of testifying in his own behalf.

Thus, we are reluctantly forced to the conclusion that all human institutions have their limitations, and that, however theoretically perfect a government of laws may be, it must be administered by men whose chief regard will not be the idealization of a theory of liberty so much as an immediate solution of some concrete problem. And, of course, we have known this all along, but instead of doing away with impossible laws we have preferred to have prohibition on Main Street and free liquor at the hotel side doors, closed Sundays on the statute books and a wide-open town in practice, immunity from arrest in theory under cover of the agreeable delusion that America is the freest country in the world, and in reality the same situation that exists in continental countries.

Not that the matter, after all, is particularly important to most of us, but laws which exist only to be broken create a disrespect and disregard for law which may ultimately be dangerous. It would be perfectly simple for the legislature to say that a citizen *might* be arrested under circumstances tending to cause a reasonable suspicion, even if he had not committed a crime, and it would be quite easy to pass a statute providing that the commissioner of police might "mug" and measure all criminals immediately after conviction. As it is, the prison authorities won't let him, so he has to do it while he has the opportunity.

It must be admitted that this is rather hard on the innocent, but they now have to suffer with

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the guilty for the sins of an indolent and uninterested legislature. Moreover, if such a right of arrest were proposed, some wiseacre or politician would probably rise up and denounce the suggestion as the first step in the direction of a military dictatorship. Thus, we shall undoubtedly fare happily on in the blissful belief that our personal liberties are the subject of the most solicitous and zealous care on the part of the authorities, guaranteed to us under a government which is not of men but of laws, until one of us happens to be arrested (by mistake, of course) and learns by sad experience the practical methods of the police in dealing with criminals and the agreeable but deceptive character of the pleasant fiction of the presumption of innocence.

## CHAPTER II

### PREPARING A CRIMINAL CASE FOR TRIAL

WHEN the prosecuting attorney in a great criminal trial arises to open the case to the impanelled jury, very few, if any, of them have the slightest conception of the enormous expenditure of time, thought, and labor which has gone into the preparation of the case and made possible his brief and easily delivered speech. For in this opening address of his there must be no flaw, since a single misstated or overstated fact may prejudice the jury against him and result in his defeat. Upon it also depends the jury's first impression of the case and of the prosecutor himself—no inconsiderable factor in the result—and in a trial of importance its careful construction with due regard to what facts shall be omitted (in order to enhance their dramatic effect when ultimately proven) may well occupy the district attorney every evening for a week. But if the speech itself has involved study and travail, it is as nothing compared with the amount required by that most important feature of every criminal case—the selection of the jury.

For a month before the trial, or whenever it may be that the jury has been drawn, every member upon the panel has been subjected to an unseen inquisitorial process. The prosecutor, through his own or

through hired sleuths, has studied with microscopic care the family history, the business standing and methods, the financial responsibility, the political and social affiliations, and the personal habits and "past performances" of each and every talesman. When at the beginning of the trial they, one by one, take the witness-chair (on what is called the *voir dire*) to subject themselves to an examination by both sides as to their fitness to serve as jurors in the case, the district attorney probably has close at hand a rather detailed account of each, and perchance has great difficulty in restraining a smile when some prospective juror, in his eagerness either to serve or to escape, deliberately equivocates in answer to an important question as to his personal history.

"Are you acquainted with the accused or his family?" mildly inquires the assistant prosecutor.

"No—not at all," the talesman may blandly reply.

The answer, perhaps, is literally true, and yet the prosecutor may be pardoned for murmuring "Liar!" to himself as he sees that his memorandum concerning the juror's qualifications states that he belongs to the same "lodge" with the prisoner's uncle by marriage and carries an open account on his books with the defendant's father.

"I think we will excuse Mr. Ananias," politely remarks the prosecutor; then in an undertone he turns to his chief and mutters: "The old rascal! He would have knifed us into a thousand pieces if we'd given him the chance!" And all this time the disgruntled Mr. Ananias is wondering why, if he *didn't*

"know the defendant or his family," he was not accepted as a juror.

Of course, every district attorney has, or should have, pretty good information as to each talesman's actual capabilities as a juror and something of a record as to how he has acted under fire. If he is a member of the "special" panel, it is easy to find out whether he has ever acquitted or convicted in any *cause célèbre*, and if he has acquitted any plainly guilty defendant in the past it is not likely that his services will be required. If, however, he has convicted in such a case the district attorney may try to lure the other side into accepting him by making it appear that he himself is doubtful as to the juror's desirability. Sometimes persons accused of crime themselves, and actually under indictment, find their way onto the panels, and more than one ex-convict has appeared there in some inexplicable fashion. But to find them out may well require a double shift of men working day and night for a month before the case is called, and what may appear to be the most trivial fact thus discovered may in the end prove the decisive argument for or against accepting the juror.

Panel after panel may be exhausted before a jury in a great murder trial has been selected, for each side in addition to its challenges for "cause" or "bias" has thirty\* peremptory ones which it may exercise arbitrarily. If the writer's recollection is not at fault, the large original panel drawn in the first Molineux trial was used up and several others had to be drawn

\* In the State of New York.

until eight hundred talesmen had been interrogated before the jury was finally selected. It is usual to examine at least fifty in the ordinary murder case before a jury is secured.

It may seem to the reader that this scrutiny of talesmen is not strictly preparation for the trial, but, in fact, it is fully as important as getting ready the facts themselves; for a poor jury, either from ignorance or prejudice, will acquit on the same facts which will lead a sound jury to convict. A famous prosecutor used to say, "Get your jury—the case will take care of itself."

But as the examination of the panel and the opening address come last in point of chronology it will be well to begin at the beginning and see what the labors of the prosecutor are in the initial stages of preparation. Let us take, for example, some notorious case, where an unfortunate victim has died from the effects of a poisoned pill or draft of medicine, or has been found dead in his room with a revolver bullet in his heart. Some time before the matter has come into the hands of the prosecutor, the press and the police have generally been doing more or less (usually less) effective work upon the case. The yellow journals have evolved some theory of who is the culprit and have loosed their respective reporters and "special criminologists" upon him. Each has its own idea and its own methods—often unscrupulous. And each has its own particular victim upon whom it intends to fasten the blame. Heaven save his reputation! Many an innocent man has been

ruined for life through the efforts of a newspaper "to make a case," and, of course, the same thing, though happily in a lesser degree, is true of the police and of some prosecutors as well.

In every great criminal case there are always four different and frequently antagonistic elements engaged in the work of detection and prosecution—first, the police; second, the district attorney; third, the press; and, lastly, the personal friends and family of the deceased or injured party. Each for its own ends—be it professional pride, personal glorification, hard cash, or revenge—is equally anxious to find the evidence and establish a case. Of course, the police are the first ones notified of the commission of a crime, but as it is now almost universally their duty to inform at once the coroner and also the district attorney thereof, a tripartite race for glory frequently results which adds nothing to the dignity of the administration of criminal justice.

The coroner is at best no more than an appendix to the legal anatomy, and frequently he is a disease. The spectacle of a medical man of small learning and less English trying to preside over a court of first instance is enough to make the accused himself chuckle for joy.

Not long ago the coroners of New York discovered that, owing to the fact that the district attorney or his representatives generally arrived first at the scene of any crime, there was nothing left for the "medicos" to do, for the district attorney would thereupon submit the matter at once to the grand jury instead

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of going through the formality of a hearing in the coroner's court. The legal medicine men felt aggrieved, and determined to be such early birds that no worm should them escape. Accordingly, the next time one of them was notified of a homicide he raced his horse down Madison Avenue at such speed that he collided with a trolley car and broke his leg.

Another complained to the district attorney that the assistants of the latter, who had arrived at the scene of an asphyxiation before him, had bungled everything.

"Ach, dose young men!" he exclaimed, wringing his hands—"Dose young men, dey come here und dey opened der vindow und let out der gas und *all mine evidence esgaped.*"

The same coroner on another occasion discovered that a murderer had removed the body of his victim to New Jersey, thus depriving him of any corpse upon which to hold his inquest. A sympathetic reporter thereupon suggested that it would be well to have a law prohibiting any such removal by the party committing a homicide.

"Dot vas a good idea!" solemnly replied the medical Solon. "It should be made a crime! I will haf it proposed at der next legislature."

It is said that this interesting personage once instructed his jury to find that "the *diseased* came to his death from an *ulster* on the stomach."

These anecdotes are, perhaps, what judges would call *obiter dicta*, yet the coroner's court has more than once been utilized as a field in the actual preparation

of a criminal case. When Roland B. Molineux was first suspected of having caused the death of Mrs. Adams by sending the famous poisoned package of patent medicine to Harry Cornish through the mails, the assistant district attorney summoned him as a witness to the coroner's court and attempted to get from him in this way a statement which Molineux would otherwise have refused to make.

When all the first hullabaloo is over and the accused is under arrest and safely locked up, it is usually found that the police have merely run down the obvious witnesses and made a *prima facie* case. All the finer work remains to be done either by the district attorney himself or by the detective bureau working under his immediate direction or in harmony with him. Little order has been observed in the securing of evidence. Every one is a fish who runs into the net of the police, and all is grist that comes to their mill. The district attorney sends for the officers who have worked upon the case and for the captain or inspector who has directed their efforts, takes all the papers and tabulates all their information. His practiced eye shows him at once that a large part is valueless, much is contradictory, and all needs careful elaboration. A winnowing process occurs then and there; and the officers probably receive a "special detail" from headquarters and thereafter take their orders from the prosecutor himself. The detective bureau is called in and arrangements made for the running down of particular clews. Then he will take off his coat, clear his desk, and get down to work.

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Of course, his first step is to get all the information he can as to the actual facts surrounding the crime itself. He immediately subpoenas all the witnesses, whether previously interrogated by the police or not, who know anything about the matter, and subjects them to a rigorous cross-examination. Then he sends for the police themselves and cross-examines *them*. If it appears that any witnesses have disappeared he instructs his detectives how and where to look for them. Often this becomes in the end the most important element in the preparation for the trial. Thus in the Nan Patterson case the search for and ultimate discovery of Mr. and Mrs. Morgan Smith (the sister and brother-in-law of the accused) was one of its most dramatic features. After they had been found it was necessary to indict and then to extradite them in order to secure their presence within the jurisdiction, and when all this had been accomplished it proved practically valueless.

It frequently happens that an entire case will rest upon the testimony of a single witness whose absence from the jurisdiction would prevent the trial. An instance of such a case was that of Albert T. Patrick, for without the testimony of his alleged accomplice—the valet Jones—he could not have been convicted of murder. The preservation of such a witness and his testimony thus becomes of paramount importance, and rascally witnesses sometimes enjoy considerable ease, if not luxury, at the expense of the public while waiting to testify. Often, too, a case of great interest will arise where the question of the guilt of the accused turns upon the evidence of some one person who,

either from mercenary motives or because of "blood and affection," is unwilling to come to the fore and tell the truth. A striking case of this sort occurred some ten years ago. The "black sheep" of a prominent New York family forged the name of his sister to a draft for thirty thousand dollars. This sister, who was an elderly woman of the highest character and refinement, did not care to pocket the loss herself and declined to have the draft debited to her account at the bank. A lawsuit followed, in which the sister swore that the name signed to the draft was not in her handwriting. She won her case, but some disinterested though officious person laid the matter before the district attorney. The forger was arrested and his sister was summoned before the grand jury. Here was a pleasant predicament. If she testified for the State her brother would undoubtedly go to prison for many years, to say nothing of the notoriety for the entire family which so sensational a case would occasion. She, therefore, slipped out of the city and sailed for Europe the night before she was to appear before the grand jury. Her brother was in due course indicted and held for trial in large bail, but there was and is no prospect of convicting him for his crime so long as his sister remains in the voluntary exile to which she has subjected herself. She can never return to New York to live unless something happens either to the indictment or her brother, neither of which events seems likely in the immediate future.

Perhaps, if the case is one of shooting, the weapon

has vanished. Its discovery may lead to the finding of the murderer. In one instance where a body was found in the woods with a bullet through the heart there was nothing to indicate who had committed the crime. The only scintilla of evidence was an exploded cartridge—a small thing on which to build a case. But the district attorney had the hammer marks upon the cap magnified several hundred times and then set out to find the rifle which bore the hammer which had made them. Thousands of rifles all over the State were examined. At last in a remote lumber camp was found the weapon which had fired the fatal bullet. The owner was arrested, accused of the murder, and confessed his crime. In like manner, if it becomes necessary to determine where a typewritten document was prepared the letters may be magnified, and by examining the ribbons of suspected machines the desired fact may be ascertained. The magnifying glass still plays an important part in detecting crime, although usually in ways little suspected by the general public.

On the other hand, where the weapon has not been spirited away the detectives may spend weeks in discovering when and where it was purchased. Every pawnshop, every store where a pistol could be bought, is investigated, and under proper circumstances the requisite evidence to show deliberation and premeditation may be secured.

These investigations are naturally conducted at the very outset of the preparation of the case. The weapon, in seven trials out of ten, is the most im-

portant thing in it. By its means it can generally be demonstrated whether the shooting was accidental or intentional—and whether or not the killing was in self-defence.

Where this last plea is interposed it is usually made at once upon the arrest, the accused explaining to the police that he fired only to save his own life. In such a situation, where the killing is admitted, practically the entire preparation will centre upon the most minute tests to determine whether or not the shot was fired as the accused claims that it was. The writer can recall at least a dozen cases in his own experience where the story of the defendant, that the revolver was discharged in a hand-to-hand struggle, was conclusively disproved by experimenting with the weapon before the trial. There was one homicide in which a bullet perforated a felt cap and penetrated the forehead of the deceased. The defendant asserted that he was within three feet of his victim when he fired, and that the other was about to strike him with a bludgeon. A quantity of felt, of weight similar to that of the cap, was procured and the revolver discharged at it from varying distances. A microscopic examination showed that certain discolorations around the bullet-hole (claimed by the defence to be burns made by the powder) were, in fact, grease marks and that the shot must have been fired from a distance of about fifteen feet. The defendant was convicted on his own story, supplemented by the evidence of the witness who made the tests.

The most obvious and first requirement is, as has been said, to find the direct witnesses to the facts

surrounding the crime, commit their statements under oath to writing, so that they cannot later be denied or evaded, and make sure that these witnesses will not only hold no intercourse with the other side, but will be on hand when wanted. This last is not always an easy task, and various expedients often have to be resorted to, such as placing hostile witnesses under police surveillance, or in some cases in "houses of detention," and hiding others in out-of-the-way places, or supplying them with a bodyguard if violence is to be anticipated. When the proper time comes the favorable witnesses must be duly drilled or coached, which does not imply anything improper, but means merely that they must be instructed how to deliver their testimony, what answers are expected to certain questions, and what facts it is intended to elicit from them. Witnesses are often offended and run amuck because they are not given a chance upon the stand to tell the story of their lives. This must be guarded against and steps taken to have their statements given in such a way that they are audible and intelligible. A few lessons in elementary elocution are generally vitally necessary. The man with the bassoon voice must be tamed, and the birdlike old lady made to chirp more loudly. But all this is the self-evident preparation which must take place in every case, and while highly important is of far less interest than the development of the circumstantial evidence which is the next consideration of the district attorney.

The discovery and proper proof of minute facts

which tend to demonstrate the guilt of an accused are the joy of the natural prosecutor, and he may in his enthusiasm spend many thousands of dollars on what seems, and often is, an immaterial matter. Youthful officials intrusted with the preparation of important cases often become unduly excited and forget that the taxpayers are paying the bills. The writer remembers sitting beside one of these enthusiasts during a celebrated trial. A certain woman witness had incidentally testified to a remote meeting with the deceased at which a certain other woman was alleged to have been present. The matter did not seem of much interest or importance, but the youth in question seized a yellow pad and excitedly wrote in blue pencil, "Find Birdie" (the other lady) "*at any cost!*" This he handed to a detective, who hastened importantly away. Let us hope that "Birdie" was found speedily and in an inexpensive manner.

When the case against Albert T. Patrick, later convicted of the murder of the aged William M. Rice, was in course of preparation it was found desirable to show that Patrick had called up his accomplice on the telephone upon the night of the murder. Accordingly, the telephone company was compelled to examine several hundred thousand telephone slips to determine whether or not this had actually occurred. While the fact was established in the affirmative, the company now destroys its slips in order not to have to repeat the performance a second time.

Likewise, in the preparation of the Molineux case

it became important to demonstrate that the accused had sent a letter under an assumed name ordering certain remedies. As a result, one of the employees of the patent-medicine company spent several months going over their old mail orders and comparing them with a certain sample, until at last the letter was unearthed. Of course, the district attorney had to pay for it, and it was probably worth what it cost to the prosecution, although Molineux's conviction was reversed by the Court of Appeals and he was acquitted upon his second trial.

The danger is, however, that a prosecutor who has an unlimited amount of money at his disposal may be led into expenditures which are hardly justified simply because he thinks they may help to secure a conviction. Nothing is easier than to waste money in this fashion, and public officials sometimes spend the county's money with considerably more freedom than they would their own under similar circumstances.

The legitimate expenses connected with the preparation of every important case are naturally large. For example, diagrams must be prepared, photographs taken of the place of the crime, witnesses compensated for their time and their expenses paid, and, most important of all, competent experts must be engaged. This leads us to an interesting aspect of the modern jury trial.

When no other defence to homicide is possible the claim of insanity is frequently interposed. Nothing is more confusing to the ordinary jurymen than try-

ing to determine the probative value of evidence touching unsoundness of mind, and the application thereto of the legal test of criminal responsibility. In point of fact, juries are hardly to be blamed for this, since the law itself is antiquated and the subject one abounding in difficulty. Unfortunately the opportunity for vague yet damaging testimony on the part of experts, the ease with which any desired opinion can be defended by a slight alteration in the hypothetical facts, and the practical impossibility of exposure, have been seized upon with avidity by a score or more of unscrupulous alienists who are prepared to sell their services to the highest bidder. These men are all the more dangerous because, clever students of mental disease and thorough masters of their subject as they are, they are able by adroit qualifications and skilful evasions to make half-truths seem as convincing as whole ones. They ask and receive large sums for their services, and their dishonest testimony must be met and refuted by the evidence of honest physicians, who, by virtue of their attainments, have a right to demand substantial fees. Even so, newspaper reports of the expense to the State of notorious trials are grossly exaggerated. The entire cost of the first Thaw trial to the County of New York was considerably less than twenty thousand dollars, and the second trial not more than half that amount. To the defence, however, it was a costly matter, as the recent schedules in bankruptcy of the defendant show. Therein it appears that one of his half-dozen counsel still claims as owing to him for

his services on the first trial the modest sum of thirty-five thousand dollars! The cost of the whole defence was probably ten times that sum. Most of the money goes to the lawyers, and the experts take the remainder.

It goes without saying that both prosecutor and attorney for the defence must be masters of the subject involved. A trial for poisoning means an exhaustive study not only of analytic chemistry, but of practical medicine on the part of all the lawyers in the case, while a plea of insanity requires that, for the time being, the district attorney shall become an alienist, familiar with every aspect of *paranoia*, *dementia præcox*, and all other forms of mania. He must also reduce his knowledge to concrete, workable form, and be able to defeat opposing experts on their own ground. But such knowledge comes only by prayer and fasting—or, perhaps, rather by months of hard and remorseless grind.

The writer once prosecuted a druggist who had, by mistake, filled a prescription for a one-fourth-grain pill of calomel with a one-fourth-grain pill of morphine. The baby for whom the pill was intended died in consequence. The defence was that the prescription had been properly filled, but that the child was the victim of various diseases, from acute gastritis to cerebro-spinal meningitis. In preparation the writer was compelled to spend four hours every evening for a week with three specialists, and became temporarily a minor expert on children's diseases. To-day he is forced to admit that he would not

know a case of acute gastritis from one of mumps. But the druggist was convicted.

Yet it is not enough to prepare for the defence you *believe* the accused is going to interpose. A conscientious preparation means getting ready for *any* defence he may endeavor to put in. Just as the prudent general has an eye to every possible turn of the battle and has, if he can, re-enforcements on the march, so the prosecutor must be ready for anything, and readiest of all for the unexpected. He must not rest upon the belief that the other side will concede any fact, however clear it may seem. Some cases are lost simply because it never occurs to the district attorney that the accused will deny something which the State has twenty witnesses to prove. The twenty witnesses are, therefore, not summoned on the day of trial, the defendant *does* deny it, and as it is a case of word against word the accused gets the benefit of the doubt and, perhaps, is acquitted.

No case is properly prepared unless there is in the court-room every witness who knows anything about any aspect of the case. No one can foretell when the unimportant will become the vital. Most cases turn on an unconsidered point. A prosecutor once lost what seemed to him the clearest sort of a case. When it was all over, and the defendant had passed out of the court-room rejoicing, he turned to the foreman and asked the reason for the verdict.

"Did you hear your chief witness say he was a carpenter?" inquired the foreman.

"Why, certainly," answered the district attorney.

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"Did you hear me ask him what he paid for that ready-made pine door he claimed to be working on when he saw the assault?"

The prosecutor recalled the incident and nodded.

"Well, he said ten dollars—and I knew he was a liar. A door like that don't cost but four-fifty!"

It is, perhaps, too much to require a knowledge of carpentry on the part of a lawyer trying an assault case. Yet the juror was undoubtedly right in his deduction.

In a case where insanity is the defence, the State must dig up and have at hand every person it can find who knew the accused at any period of his career. Hewill probably claim that in his youth hewas kicked in a game of foot-ball and fractured his skull, that later he fell into an elevator shaft and had concussion of the brain, or that he was hit on the head by a burglar. It is usually difficult, if not impossible, to disprove such assertions, but the prosecutor must be ready, if he can, to show that foot-ball was not invented until after the defendant had attained maturity, that it was some other man who fell down the elevator shaft, and to produce the burglar to deny that the assault occurred. Naturally, complete preparation for an important trial demands the presence of many witnesses who ultimately are not needed and who are never called. Probably in most such cases about half the witnesses do not testify at all. .

Most of what has been said has related to the preparation for trial of cases where the accused is already under arrest when the district attorney is called into

the case. If this stage has not been reached the prosecutor may well be called upon to exercise some of the functions of a detective in the first instance.

A few years ago it was brought to the attention of the New York authorities that many black-mailing letters were being received bearing the name of "Lewis Jarvis." These were of a character to render the apprehension of the writer of them a matter of much importance. The letters directed that the replies be sent to a certain box in the New York post-office, but as the boxes are numerous and close together it seemed doubtful if "Lewis Jarvis" could be detected when he called for his mail. The district attorney, the police, and the post-office officials finally evolved the scheme of plugging the lock of "Lewis Jarvis's" box with a match. The scheme worked, for "Jarvis," finding that he could not use his key, went to the delivery window and asked for his mail. The very instant the letters reached his hand the gyves were upon the wrists of one of the best-known attorneys in the city.

When the district attorney has been apprised that a crime has been committed, and that a certain person is the guilty party, he not infrequently allows the suspect to go his way under the careful watch of detectives, and thus often secures much new evidence against him. In this way it is sometimes established that the accused has endeavored to bribe the witnesses and to induce them to leave the State, while the whereabouts of stolen loot is often discovered. In most instances, however, the district attorney

begins where the police leave off, and he merely supplements their labors and prepares for the actual trial itself. But the press he has always with him, and from the first moment after the crime up to the execution of the sentence or the liberation of the accused, the reporters dog his footsteps, sit on his doorstep, and deluge him with advice and information.

Now a curious feature about the evidence "worked up" by reporters for their papers is that little of it materializes when the prosecutor wishes to make use of it. Of course, some reporters do excellent detective work, and there are one or two veterans (like Gus. Roeder of the *World*) attached to the criminal courts in New York City who, in addition to their literary capacities, are natural-born sleuths, and combine with a knowledge of criminal law, almost as extensive as that of a regular prosecutor, a resourcefulness and nerve that often win the case for whichever side they espouse. I have frequently found that these men knew more about the cases which I was prosecuting than I did myself, and a tip from them has more than once turned defeat into victory. But newspaper men, for one reason or another, are loath to testify, and usually make but poor witnesses. They feel that their motives will be questioned, and are naturally unwilling to put themselves in an equivocal position. The writer well remembers that in the Mabel Parker case, where the defendant, a young and pretty woman, had boasted of her forgeries before a roomful of reporters, it was

impossible, when her trial was called, to find more than one of them who would testify—and he had practically to be dragged to the witness chair. In point of fact, if reporters made a practice of being witnesses it would probably hurt their business. But, however much “faked” news may be published, a prosecutor who did not listen to all the hints the press boys had to give would make a great mistake; and as allies and advisers they are often invaluable, for they can tell him where and how to get evidence of which otherwise he would never hear.

The week before a great case is called is a busy one for the prosecutor in charge. He is at his office early to interview his main witnesses and go over their testimony with them so that their regular daily work may not be interrupted more than shall be actually necessary. Some he cautions against being over-enthusiastic and others he encourages to greater emphasis. The bashful “cop” is badgered until at last he ceases to begin his testimony in the cut-and-dried police fashion.

“On the morning of the twenty-second of July, about 3.30 A.M., while on post at the corner of Desbrosses Street——,” he starts.

“Oh, quit that!” shouts the district attorney.  
“Tell me what you saw in your own words.”

The “cop” blushes and stammers:

“Aw, well, on the morning of the twenty-second of July, about 3.30 A.M.——”

“Look here!” yells the prosecutor, jumping to his feet and shaking his fist at him, “do you want to be

taken for a d—n liar? ‘Morning of the twenty-second of July, about 3.30 A. M., while on post!’ You never talked like that in your life.”

By this time the “cop” is “mad clear through.”

“I’m no liar!” he retorts. “I saw the cuss pull his gun and shoot!”

“Well, why didn’t you say so?” laughs the prosecutor, and Patrick, mollified with a cigar, dimly perceives the objectionable feature of his testimony.

About this time one of the sleuths comes in to report that certain much-desired witnesses have been “located” and are in custody downstairs. The assistant makes immediate preparation for taking their statements. Then one of the experts comes in for a chat about a new phase of the case occasioned by the discovery that the defendant actually *did* have spasms when an infant. The assistant wisely makes an appointment for the evening. A telegram arrives saying that a witness for the defence has just started for New York from Philadelphia and should be duly watched on arrival. The district attorney sends for the assistant to inquire if he has looked up the law on similar cases in Texas and Alabama—which he probably has not done; and a friend on the telephone informs him that Tomkins, who has been drawn on the jury, is a boon companion of the prisoner and was accustomed to play bridge with him every Sunday night before the murder.

Coincidentally, some private detectives enter with a long report on the various members of the panel, including the aforesaid Tomkins, whom they pro-

nounce to be "all right," and as never having, to their knowledge, laid eyes on the accused. Finally, in despair, the prosecutor locks himself in his library with a copy of the Bible, "Bartlett's Familiar Quotations," and a volume of celebrated speeches, to prepare his summing up, for no careful trial lawyer opens a case without first having prepared, to some extent, at least, his closing address to the jury. He has thought about this for weeks and perhaps for months. In his dreams he has formulated syllogisms and delivered them to imaginary yet obstinate talesmen. He has glanced through many volumes for similes and quotations of pertinency. He has tried various arguments on his friends until he knows just how, *if* he succeeds in proving certain facts and the defence expected is interposed, he is going to convince the twelve jurors that the defendant is guilty and, perhaps, win an everlasting reputation as an orator himself.

This superficial sketch of how an important criminal case is got ready for trial would be incomplete without some further reference to something which has been briefly hinted at before—preparation upon its purely legal aspect. This may well demand almost as much labor as that required in amassing the evidence. Yet a careful and painstaking investigation of the law governing every aspect of the case is indispensable to success. The prosecutor with a perfectly clear case may see the defendant walk out of court a free man, simply because he has neglected to acquaint himself with the various points of law which may arise in the course of the trial, and the

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lawyer for an accused may find his client convicted upon a charge to which he has a perfectly good legal defence, for the same reason.

Looking at it from the point of view of the prisoner's counsel, it is obvious that it is quite as efficacious to free your client on a point of law, without having the case go to the jury at all, as to secure an acquittal at their hands.

At the conclusion of the evidence introduced in behalf of the State there is always a motion made to dismiss the case on the ground of alleged insufficiency in the proof. This has usually been made the subject of the most exhaustive study by the lawyers for the defence, and requires equal preparation on the part of the prosecutor. The writer recalls trying a bankrupt, charged with fraud, where the lawyer for the defendant had written a brief of some three hundred pages upon the points of law which he proposed to argue to the court upon his motion to acquit. But, unfortunately, his client pleaded guilty and the volume was never brought into play.

But a mastery of the law, a thorough knowledge and control of the evidence, a careful preparation for the opening and closing addresses, and an intimate acquaintance with the panel from which the jury is to be drawn are by no means the only elements in the preparation for a great legal battle. One thing still remains, quite as important as the rest—the selection of the best time and the best court for the trial. "A good beginning" in a criminal case means a beginning before the right judge, the proper jury,

and at a time when that vague but important influence known as public opinion augurs success. A clever criminal lawyer, be he prosecutor or lawyer for the defendant, knows that all the preparation in the world is of no account provided his case is to come before a stupid or biased judge, or a prejudiced or obstinate jury. Therefore, each side, in a legal battle of importance, studies, as well as it can, the character, connections, and cast of mind of the different judges who may be called upon to hear the case, and, like a jockey at the flag, tries to hurry or delay, as the case may be, until the judicial auspices appear most favorable. A lawyer who has a weak defence seeks to bring the case before a weak judge, or, if public clamor is loud against his client, makes use of every technical artifice to secure delay, by claiming that there are flaws in the indictment, or by moving for commissions to take testimony in distant points of the country. The opportunities for legal procrastination are so numerous that in a complicated case the defence may often delay matters for over a year. This may be an important factor in the final result.

Yet even this is not enough, for, ultimately, it is the judge's charge to the jury which is going to guide their deliberations and, in large measure, determine their verdict. The lawyers for the defence, therefore, prepare long statements of what they either believe or pretend to believe to be the law. These statements embrace all the legal propositions, good or bad, favorable to their side of the case. If they can induce the judge to follow these so much the better for their

client, for even if they are not law it makes no difference, since the State has no appeal from an acquittal in a criminal case, no matter how much the judge has erred. In the same way, but not in quite the same fashion, the district attorney prepares "requests to charge," but his desire for favorable instructions should be, and generally is, curbed by the consideration that if the judge makes any mistake in the law and the defendant is convicted he can appeal and upset the case. Of course, some prosecutors are so anxious to convict that they will wheedle or deceive a judge into giving charges which are not only most inimical to the prisoner, but so utterly unsound that a reversal is sure to follow; but when one of these professional bloodhounds is baying upon the trail all he thinks of is a conviction—that is all he wants, all the public will remember; to him will be the glory; and when the case is finally reversed he will probably be out of office. These "requests" cover pages, and touch upon every phase of law applicable or inapplicable to the case. Frequently they number as many as fifty, sometimes many more. It is "up to" the judge to decide "off the bat" which are right and which are wrong. If he guesses that the right one is wrong or the wrong one right the defendant gets a new trial.

## CHAPTER III

### SENSATIONALISM AND JURY TRIALS

For the past twenty-five years we have heard the cry upon all sides that the jury system is a failure. Indeed, such to-day is prevalently believed to be the case; and to this general indictment is frequently added the specification that the trials in our higher courts of criminal justice are the scenes of grotesque buffoonery and heartless merriment, where cynical juries recklessly disregard their oaths and where morbid crowds flock to satisfy the cravings of their imaginations for details of blood and sexuality.

It is unnecessary to question the honesty of those who thus picture the administration of criminal justice in America. Indeed, thus it probably appears to them. But before such an arraignment of present conditions in a highly civilized and progressive nation is accepted as final, it is well to examine into its inherent probabilities and test it by what we know of the actual facts.

In the first place, it should be remembered that the jury was instituted and designed to protect the English freeman from tyranny upon the part of the crown. Judges were, and sometimes still are, the creatures of a ruler or unduly subject to his influence. And that ruler neither was, nor is, always the head

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of the nation; but just as in the days of the Normans he might have been a powerful earl whose influence could make or unmake a judge, so to-day he may be none the less a ruler if he exists in the person of a political boss who has created the judge before whom his political enemy is to be tried. The writer has seen more than one judge openly striving to influence a jury to convict or to acquit a prisoner at the dictation of such a boss, who, not content to issue his commands from behind the arras, came to the court-room and ascended the bench to see that they were obeyed. Usually the jury indignantly resented such interference and administered a well-merited rebuke by acting directly contrary to the clearly indicated wishes of the judge.

But while admitting its theoretic value as a bulwark of liberty, the modern assailant of the jury brushes the consideration aside by asserting that the system has "broken down" and "degenerated into a farce."

Let us now see how much of a farce it is. If four times out of five a judge rendered decisions that met with general approval, he would probably be accounted a highly satisfactory judge. Now, out of every one hundred indicted prisoners brought to the bar for trial, probably fifteen ought to be acquitted if prosecuted impartially and in accordance with the strict rules of evidence. In the year 1910 the juries of New York County convicted in sixty-six per cent of the cases before them. If we are to test fairly the efficiency of the system, we must deduct from the

thirty-four acquittals remaining the fifteen acquittals which were justifiable. By so doing we shall find that in the year 1910 the New York County juries did the correct thing in about eighty-one cases out of every hundred. This is a high percentage of efficiency.\* Is it likely that any judge would have done much better?

After a rather long experience as a prosecutor, in which he has conducted many hundreds of criminal cases, the writer believes that the ordinary New York City jury finds a correct general verdict four times out of five. As to talesmen in other localities he has no knowledge or reliable information. It seems hardly possible, however, that juries in other parts of the United States could be more heterogeneous or less intelligent than those before which he formed his conclusions. Of course, jury judgments are sometimes flagrantly wrong. But there are many verdicts popularly regarded as examples of lawlessness

\* The following table gives the yearly percentages of convictions and acquittals by verdict in New York County since 1901:

| YEAR       | NUMBER<br>CONVICTIONS<br>BY VERDICT | NUMBER<br>ACQUITTALS<br>BY VERDICT | CONVICTIONS<br>PER CENT | ACQUITTALS<br>PER CENT |
|------------|-------------------------------------|------------------------------------|-------------------------|------------------------|
| 1901 ..... | 551                                 | 344                                | 62                      | 38                     |
| 1902 ..... | 419                                 | 349                                | 55                      | 45                     |
| 1903 ..... | 485                                 | 307                                | 61                      | 39                     |
| 1904 ..... | 495                                 | 357                                | 58                      | 42                     |
| 1905 ..... | 489                                 | 299                                | 62                      | 38                     |
| 1906 ..... | 464                                 | 246                                | 65                      | 35                     |
| 1907 ..... | 582                                 | 264                                | 69                      | 31                     |
| 1908 ..... | 649                                 | 301                                | 68                      | 32                     |
| 1909 ..... | 463                                 | 235                                | 66                      | 34                     |
| 1910 ..... | 649                                 | 325                                | 66                      | 34                     |

which, if examined calmly and solely from the point of view of the evidence, would be found to be the reasonable acts of honest and intelligent juries.

For example, the acquittal of Thaw *upon the ground of insanity* is usually spoken of as an illustration of sentimentality on the part of jurymen, and of their willingness to be swayed by their emotions where a woman is involved. But few clearer cases of insanity have been established in a court of justice. The district attorney's *own experts* had pronounced the defendant a hopeless paranoiac; the prosecutor had, at a previous trial, openly declared the same to be his own opinion; and the evidence was convincing. At the time it was rendered, the verdict was accepted as a foregone conclusion. To-day the case is commonly cited as proof of the gullibility of juries and of the impossibility of convicting a rich man of a crime.

There will always be some persons who think that every defendant should be convicted and feel aggrieved if he is turned out by the jury. Yet they entirely forget, in their displeasure at the acquittal of a man whom they instinctively "*know*" to be guilty, that the jury probably had exactly the same impression, but were obliged under their oaths to acquit because of an insufficiency of evidence.

An excellent illustration of such a case is that of Nan Patterson. She is commonly supposed to have attended, upon the night of her acquittal, a banquet at which one of her lawyers toasted her as "the guilty girl who beat the case." Whether she was guilty or not, there is a general and well-founded impression

that she murdered Cæsar Young. Yet the writer, who was present throughout the trial, felt at the conclusion of the case that there was a fairly reasonable doubt of her guilt. Even so, the jury disagreed, although the case is usually referred to as an acquittal and a monument to the sentimentality of juries.

The acquittal of Roland B. Molineux is also recalled as a case where a man, previously proved guilty, managed to escape. The writer, who was then an assistant district attorney, made a careful study of the evidence at the time, and feels confident that the great majority of the legal profession would agree with him in the opinion that the Court of Appeals had no choice but to reverse the defendant's first conviction on account of the most prejudicial error committed at the trial, and that the jury who acquitted him upon the second occasion had equally no choice when the case was presented with a proper regard to the rules of evidence and procedure. Indeed, on the second trial the evidence pointed almost as convincingly toward another person as toward the defendant.

I have mentioned the Patterson, Thaw, and Molineux trials because they are cases commonly referred to in support of the general contention that the jury system is a failure. But I am inclined to believe that any single judge, bench of judges, or board of commissioners would have reached the same result as the juries did in these instances.

It is quite true that juries, for rather obvious reasons, are more apt to acquit in murder cases than in others. In the first place, save where the defendant obviously belongs to the vicious criminal class, a

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jury finds it somewhat difficult to believe, unless overwhelming motive be shown, that he could have deliberately taken another's life. Thus, with sound reason, they give great weight to the plea of self-defence which the accused urges upon them. He is generally the only witness. His story has to be disproved by circumstantial evidence, if indeed there be any. Frequently it stands alone as the only account of the homicide. Thus murder cases are almost always weaker than others, since the chief witness has been removed by death; while at the same time the nature of the punishment leads the jury unconsciously to require a higher degree of proof than in cases where the consequences are less abhorrent. All this is quite natural and inevitable. Moreover, homicide cases as a rule are better defended than others, a fact which undoubtedly affects the result. These considerations apply to all trials for homicide, notorious or otherwise, the results of which in New York County for the past ten years are set forth in the following table:

| YEAR       | CONVICTIONS | ACQUITTALS | CONVICTIONS<br>PER CENT | ACQUITTALS<br>PER CENT |
|------------|-------------|------------|-------------------------|------------------------|
| 1901 ..... | 25          | 17         | 60                      | 40                     |
| 1902 ..... | 31          | 11         | 74                      | 26                     |
| 1903 ..... | 42          | 8          | 84                      | 16                     |
| 1904 ..... | 37          | 14         | 72                      | 28                     |
| 1905 ..... | 32          | 13         | 71                      | 29                     |
| 1906 ..... | 53          | 22         | 70                      | 30                     |
| 1907 ..... | 39          | 10         | 78                      | 22                     |
| 1908 ..... | 35          | 17         | 67                      | 33                     |
| 1909 ..... | 43          | 11         | 80                      | 20                     |
| 1910 ..... | 45          | 15         | 75                      | 25                     |
| Total..... | 382         | 138        | Av. 73                  | Av. 27                 |

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A popular impression exists at the present time that a man convicted of murder has but to appeal his case on some technical ground in order to secure a reversal, and thus escape the consequences of his crime. How wide of the mark such a belief may be, at least so far as one locality is concerned, is shown by the fact that in New York State, from 1887 to 1907, there were 169 decisions by the Court of Appeals on appeals from convictions of murder in the first degree, out of which there were only twenty-nine reversals. Seven of these defendants were again immediately tried and convicted, and a second time appealed, upon which occasion only two were successful, while five had their convictions promptly affirmed. Thus, so far as the ultimate triumph of justice is concerned, out of 169 cases in that period the appellants finally succeeded in twenty-two only.

Since 1902 there have been twenty-seven decisions rendered in first-degree murder cases by the Court of Appeals, with *only three reversals*.\* The more important convictions throughout the State are affirmed with great regularity.

As to the conduct of such cases, the writer's own experience is that a murder trial is the most solemn proceeding known to the law. He has prosecuted at least fifty men for murder, and convicted more than he cares to remember. Such trials are invariably dignified and deliberate so far as the conduct of the legal side of the case is concerned. No judge, however unqualified for the bench; no prosecutor, how-

\* Written in 1909.

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ever light-minded; no lawyer, however callous, fails to feel the serious nature of the transaction or to be affected strongly by the fact that he is dealing with life and death. A prosecutor who openly laughed or sneered at a prisoner charged with murder would severely injure his cause. The jury, naturally, are overwhelmed with the gravity of the occasion and the responsibility resting upon them.

In the Patterson, Thaw, and Molineux cases the evidence, unfortunately, dealt with unpleasant subjects and at times was revolting, but there was a quiet propriety in the way in which the witnesses were examined that rendered it as inoffensive as it could possibly be. Outside the court-room the vulgar crowd may have spat and sworn; and inside no doubt there were degenerate men and women who eagerly strained their ears to catch every item of depravity. But the throngs that filled the court-room were quiet and well ordered, and the merely curious outnumbered the morbid.

The writer deprecates the impulse which leads judges, from a feeling that justice should be publicly administered, to throw wide the doors of every court-room, irrespective of the subject-matter of the trial. We need have no fear of Star Chamber proceedings in America, and no harm would be done by excluding from the court-room all persons who have no business at a trial.

It is, of course, not unnatural that in the course of a trial occupying weeks or months the tension should occasionally be relieved by a gleam of humor. After you have been busy trying a case for a couple of weeks

you go to court and set to work in much the same frame of mind in which you would attack any other business. But the fact that a small boy sometimes sees something funny at a funeral, or a bevy of giggling shop-girls may be sitting in the gallery at a fashionable wedding, argues little in respect to the solemnity or beauty of the service itself.

What *are* the celebrated cases—the trials that attract the attention and interest of the public? In the first place, they are the very cases which contain those elements most likely to arouse the sympathy and prejudices of a jury—where a girl has taken the life of her supposed seducer, or a husband has avenged his wife's alleged dishonor. Such cases arouse the public imagination for the very reason that every man realizes that there *are* two sides to every genuine tragedy of this character—the legal and the natural. Thus, aside from any other consideration, they are the obvious instances where justice is most likely to go astray.

In the next place, the defence is usually in the hands of counsel of adroitness and ability; for even if the prisoner has no money to pay his lawyer, the latter is willing to take the case for the advertising he will get out of it.

Third, a trial which lasts for a long time naturally results in creating in the jury's mind an exaggerated idea of the prisoner's rights, namely, the presumption of innocence and the benefit of the reasonable doubt. For every time that the jury will hear these phrases once in a petty larceny or forgery case, they will

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hear them in a big murder trial a hundred times. They see the defendant day after day, and the relation becomes more personal. Their responsibility seems greater toward him than toward the defendant in petty cases.

Last, as previously suggested, murder cases are apt to be inherently weaker than others, and more often depend upon circumstantial evidence.

The results of such cases are therefore but a poor test of the efficiency of a jury system. They are, in fact, the precise cases where, if at all, the jury might be expected to go wrong.

But juries would go astray far less frequently even in such trials were it not for that most vicious factor in the administration of criminal justice—the “yellow” journal. For the impression that public trials are the scenes of coarse buffoonery and brutality is due to the manner in which these trials are exploited by the sensational papers.

The instant that a sensational homicide occurs, the aim of the editors of these papers is—not to see that a swift and sure retribution is visited upon the guilty, or that a prompt and unqualified vindication is accorded to the innocent, but, on the contrary, so to handle the matter that as many highly colored “stories” as possible can be run about it.

Thus, where the case is perfectly clear against the prisoner, the “yellow” press seeks to bolster up the defence and really to justify the killing by a thinly disguised appeal to the readers’ passions. Not infrequently, while the editorial page is mourning the

prevalence of homicide, the front columns are bristling with sensational accounts of the home-coming of the injured husband, the heart-breaking confession of the weak and erring wife, and the sneering non-chalance of the seducer, until a public sentiment is created which, if it outwardly deprecates the invocation of the unwritten law, secretly avows that it would have done the same thing in the prisoner's place.

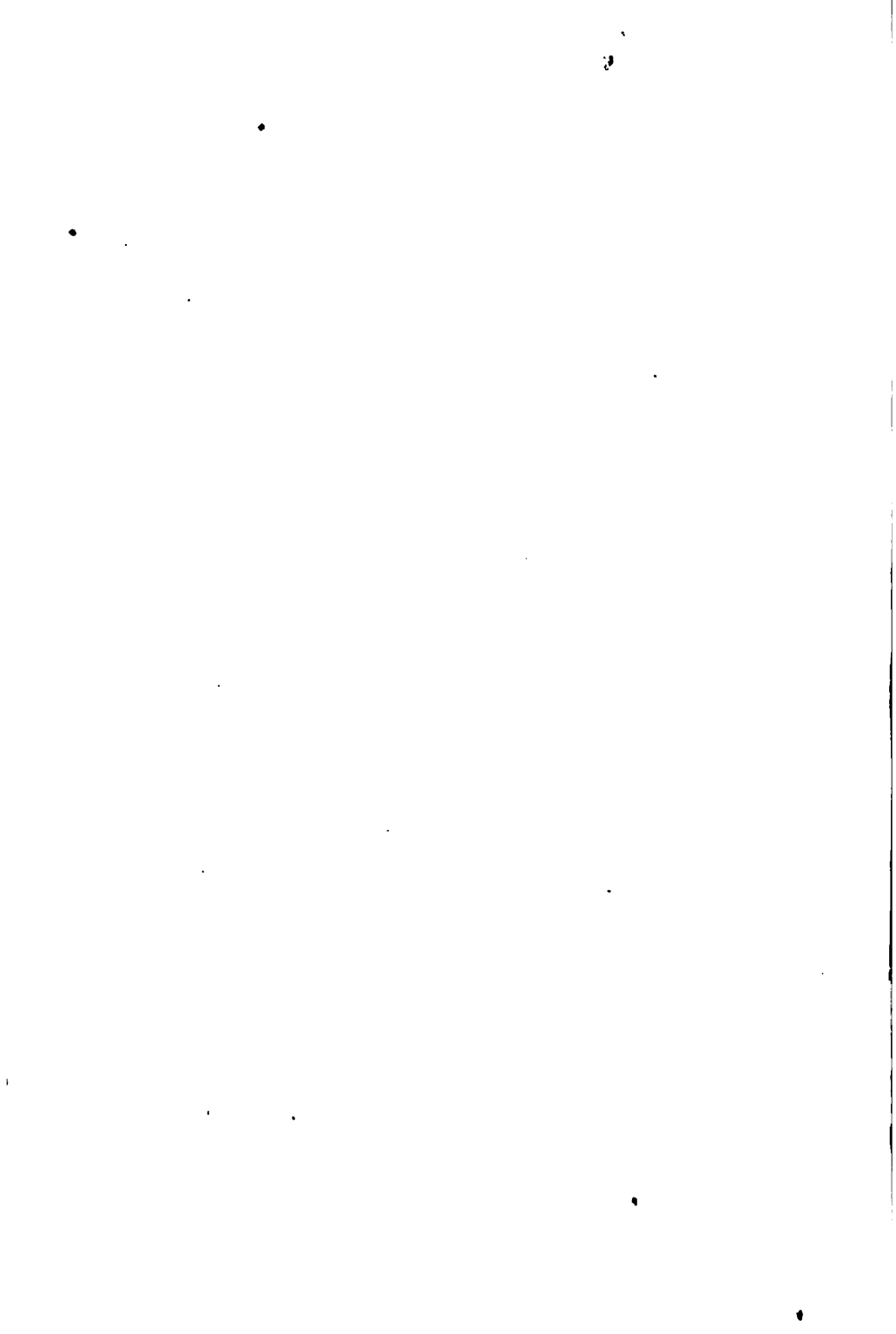
This antecedent public sentiment is fostered from day to day until it has unconsciously permeated every corner of the community. The juryman will swear that he is unaffected by what he has read, but unknown to himself there are already tiny furrows in his brain along which the appeal of the defence will run.

In view of this deliberate perversion of truth and morals, the euphemisms of a hard-put defendant's counsel when he pictures a chorus girl as an angel and a coarse bounder as a St. George seem innocent indeed. It is not within the rail of the court-room but within the pages of these sensational journals that justice is made a farce. The phrase "contempt of court" has ceased practically to have any significance whatever. The front pages teem with caricatures of the judge upon the bench, of the individual jurors with exaggerated heads upon impossible bodies, of the lawyers ranting and bellowing, juxtaposed with sketches of the defendant praying beside his prison cot or firing the fatal shot in obedience to a message borne by an angel from on high.

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How long would the "unwritten law" play any part in the administration of criminal justice if every paper in the land united in demanding, not only in its editorials, but upon its front pages, that private vengeance must cease? Let the "yellow" newspapers confine themselves simply to an accurate report of the evidence at the trial, with a reiterated insistence that the law must take its course. Let them stop pandering to those morbid tastes which they have themselves created. Let the "Sympathy Sisters," the photographer, and the special artist be excluded from the court-room. When these things are done, we shall have the same high standard of efficiency upon the part of the jury in great murder trials that we have in other cases.

## **CRIMINALS**



## CHAPTER IV

### WHY DO MEN KILL?

WHEN a shrewd but genial editor called me up on the telephone and asked me how I should like to write an article (a "story," he called it) on the above lurid title, I laughed in his—I mean the telephone's face.

"My dear fellow!" I said (I should only have the nerve to call him that over a wire). "My dear fellow! It would ruin me! How could I keep my self-respect and write that kind of sensational stuff—me, a reputable, conservative, dry-as-dust member of the bar! Go to! Why do men kill? Ha-ha! Why do men eat? Why do men drink? Why do men love? Why do men——"

"Yes," came back his somewhat cynical voice "Why?"

"How do I know?" I answered, still trying to be jocular. "I never killed anybody!"

"Eh?" said he.

I paused.

"Well," I admitted, "never actually with my own hand, old chap! I have—taken part—so to speak—in—er—proceedings that ultimately resulted in the death of certain human beings—in a perfectly legal way, but I'm not sure that I entirely approved of

it. Duty, you know! Salary—I had a growing family.”

“Look here!” he interrupted. “I want that story. I want to know something. I do! I want to know why one man kills another man. If we knew why, maybe we could stop it, couldn’t we? We could try to, anyhow. And you know something about it. You’ve prosecuted nearly a hundred men for murder. Get the facts—that’s what I want. Cut the adjectives and morality, and get down to the reasons. Anything particularly undignified about that?”

“N—o,” I began, taking a fresh start.

“All right,” he replied crisply. “Send it up for January.” And he rang off.

I arose and walked over to the bookcase on which reposed several shelves of “minutes” of criminal trials. They were dusty and depressing. Practically every one of them was a memento of some poor devil gone to prison or to the chair. Where were they now—and *why* did they kill—yes, *why did* they?

I glanced along the red-labeled backs.

“People *versus* Candido.” Now why did *he* kill? I remembered the Italian perfectly. He killed his friend because the latter had been too attentive to his wife. “People *versus* Higgins.” Why did he? That was a drunken row on a New Year’s Eve within the sound of Trinity chimes. “People *versus* Sterling Greene.” Yes, he was a colored man—I recalled the evidence—drink and a “yellow gal.” “People *versus* Mock Duck”—a Chinese feud between the On Leong Tong and the Hip Sing Tong—a vendetta,

first one Chink shot and then another, turn and turn about, running back through Mott Street, New York, Boston, San Francisco, until the origin of the quarrel was lost in the dim Celestial mists across the sea. Out of the first four cases the following motives: Jealousy—1. Drink—1. Drink and jealousy—1. Scattering (how can you term a "Tong" row?)—1.

I began to get interested. Supposing I dug out *all* the homicide cases I had ever tried, what would the result show as to motive for the killing? Would drink and women account for seventy-five per cent? Mentally I ran my eye back over nearly ten years. What *other* motives had the defendants at the bar had? There was Laudiero—an Italian "Camorrista"—he had killed simply for the distinction it gave him among his countrymen and the satisfaction he felt at being known as a "bad" man—a "capo maestra." There was Joseph Ferrone—pure jealousy again. Hendry—animal hate intensified by drink. Yoscow—a deliberate murder, planned in advance by several of a gang, to get rid of a young bully who had made himself generally unpleasant. There was Childs, who had killed, as he claimed, in self-defence because he was set upon and assaulted by rival runners from another seaman's boarding house. Really it began to look as if men killed for a lot of reasons. I wanted to call up my friend and ask what kind of killings counted. Did he simply want to know why men murdered one another? He couldn't possibly mean that I was to attempt to explain why they saw fit to exterminate each other by means of capital punish-

ment? Or ran over one another in trains and automobiles? Or allowed each other to die from unsanitary conditions? Or lynched one another?—there was only *one* reason for that I knew. Or killed themselves? Nor did he mean to have me go into the question of why they killed elsewhere—in Naples, Sicily, Constantinople, and so on. No; what he wanted to find out was why men in the United States of America killed other men of their own kind without malice aforethought—legal and quasi-legal killings excluded. Moreover, he wanted to know from the actual personal experience of those who had weighed the evidence as to their motives in a sufficiently large number of cases to be representative.

One consideration at once suggested itself. How about the killings where the murderer is never caught? The prisoners *tried* for murder are only a mere fraction of those who *commit* murder. True, and the more deliberate the murder, the greater, unfortunately, the chance of the villain getting away. Still, in cases merely of suspected murder, or in cases where no evidence is taken, it would be manifestly unfair arbitrarily to assign motives for the deed, if deed it was. No, one must start with the assumption, sufficiently accurate under all the circumstances, that the killings in which the killer is caught are fairly representative of killings as a whole.

All crimes naturally tend to divide themselves into two classes—crimes against property and crimes against the person, each class having an entirely different assortment of reasons for their commission.

There can be practically but one motive for theft, burglary, or robbery. It is, of course, conceivable that such crimes might be perpetrated for revenge—to deprive the victim of some highly prized possession. But in the main there is only one object—unlawful gain. So, too, blackmail, extortion, and kidnapping are all the products of the desire for “easy money.” *But, unquestionably, this is the reason for murder in comparatively few cases.*

The usual motive for crimes against the person—assault, manslaughter, mayhem, murder, etc.—is the desire to punish, or be avenged upon another by inflicting personal pain upon him or by depriving him of his most valuable asset—life. And this desire for retaliation or revenge generally grows out of a recent humiliation received at the hands of the other person, a real or fancied wrong to oneself, a member of one’s family, or one’s property. But this was too easy an answer to my friend’s question. He could have got that much out of any elementary text-book on penology. He wanted and deserved more than that, and I set out to give it to him.

My first inquiry was in the direction of original sources. I sought out the man in the district attorney’s office who had had the widest general experience and put the question to him. This was Mr. Charles C. Nott, Jr., who has been trying murder cases for nearly ten years. It so happened that he had kept a complete record of all of them and this he courteously placed at my disposal. The list contains sixty-two cases, and the defendants were of divers races. These

homicides included seventeen committed in cold blood (about twenty-five per cent, an extraordinary percentage) from varying motives, as follows: One defendant (white) murdered his colored mistress simply to get rid of her; another killed out of revenge because the deceased had "licked" him several times before; another, having quarrelled with his friend over a glass of soda water, later on returned and precipitated a quarrel by striking him, in the course of which he killed him; another because the deceased had induced his wife to desert him; another lay in wait for his victim and killed him without the motive ever being ascertained; one man killed his brother to get a sum of money, and another because his brother would not give him money; another because he believed the deceased had betrayed the Armenian cause to the Turks; another because he wished to get the deceased out of the way in order to marry his wife; and another because deceased had knocked him down the day before. One man had killed a girl who had ridiculed him; and one a girl who had refused to marry him; another had killed his daughter because she could no longer live in the house with him; one, an informer, had been the victim of a Black Hand vendetta; and the last had poisoned his wife for the insurance money in order to go off with another woman. There were two cases of infanticide, one in which a woman threw her baby into the lake in Central Park, and another in which she gave her baby poison. Besides these murders, five homicides had been committed in the

course of perpetrating other crimes, including burglary and robbery.

Passing over three cases of culpable negligence resulting in death, we come to thirty-seven homicides during quarrels, some of which might have been technically classified as murders, but which, being committed "in the heat of passion," in practically every instance resulted in a verdict of manslaughter. The quarrels often arose over the most trifling matters. One was a dispute over a broom, another over a horse blanket, another over food, another over a twenty-five-cent bet in a pool game, another over a loan of fifty cents, another over ten cents in a crap game, and still another over one dollar and thirty cents in a crap game. Five men were killed in drunken rows which had no immediate cause except the desire to "start something." One man killed another because he had not prevented the theft of some lumber, one (a policeman) because the deceased would not "move on" when ordered, one because a bartender refused to serve him with any more drinks, and one (a bartender) because the deceased insisted that he *should* serve more drinks. One man was killed in a quarrel over politics, one in a fuss over some beer, one in a card game, one trying to rob a fruit-stand, one in a dispute with a ship's officer, one in a dance hall row. One man killed another whom he found with his wife, and one wife killed her husband for a similar cause; another wife killed her husband simply because she "could not stand him," and one because he was fighting with their son. One man was killed

by another who was trying to collect from him a debt of six hundred dollars. One quarrel resulting in homicide arose because the defendant had pointed out deceased to the police, another because the participants called each other names, and another arose out of an alleged seduction. Three homicides grew out of street rows originating in various ways. One man killed another who was fighting with a friend of the first, a janitor was killed in a "continuous row" which had been going on for a long time, and one homicide was committed for "nothing in particular."

This astonishing olla podrida of reasons for depriving men of their lives leaves one stunned and confused. Is it possible to deduce any order out of such homicidal chaos? Still, an attempt to classify such diverse causes enables one to reach certain general conclusions. Out of the sixty-two homicides there were seventeen cold-blooded murders, with deliberation and premeditation (in such cases the *reasons* for the killing are by comparison unimportant); three homicides due to negligence, five committed while perpetrating a felony; thirty-seven manslaughters, due in sixteen cases to quarrels (simply), thirteen to drink, four to disputes over money, three to women, one to race antagonism.

Reclassifying the seventeen murders according to causes, we have: Six due to women, four to quarrels, five to other causes, and two infanticides. Added to the manslaughters previously classified, we have a total of sixty-two killings, due in twenty cases to

quarrels, thirteen to drink, nine to women, four to disputes over money, one to race antagonism, five to general causes, three to negligence, two infanticides, five during the commission of other crimes.

The significant features of this analysis are that about seventy-five per cent of the killings were due to quarrels over small sums or other matters, drink and women; over fifty per cent to drink and petty quarrels, and about thirty per cent to quarrels simply. The trifling character of the causes of the quarrels themselves is shown by the fact that in three of these particular cases, tried in a single week, the total amount involved in the disputes was only eighty-five cents. That is about twenty-eight and one-half cents a life. Many a murder in a barroom grows out of an argument over whether a glass of beer has, or has not, been paid for, or whose turn it is to treat; and more than one man has been killed in New York City because he was too clumsy to avoid stepping on somebody's feet or bumping into another man on the sidewalk.

The writer sincerely regrets that his own lack of initiative prevented his keeping a diary similar to that of his colleague, Mr. Nott, during his seven years' service as a prosecutor. It is now impossible for him to refresh his memory as to the causes of all the various homicides which he prosecuted, but where he can do so the evidence points to a conclusion similar to that deduced from Mr. Nott's record. The *proximate* causes were trifling—the *underlying* cause

was the lack of civilization of the defendant—his brutality and absence of self-control.

With a view to ascertaining conditions in general throughout the United States, I asked a clipping agency to send me the first one hundred notices of actual homicides which should come under its scissors. The immediate result of this experiment was that I received forty-five notices supposedly relating to murders and homicides, which on closer examination proved to be anything but what I wanted for the purpose in view. With only one or two exceptions they related not to deaths from violence reported as having occurred on any particular day, but to notices of convictions, acquittals, indictments, pleas of guilty and not guilty, rewards offered, sentences, executions, "suspicions" of the police, "mysteries revived," and even editorials on capital punishment.

A letter of protest brought in due course, but much more slowly, one hundred and seven clippings, which yielded the following reasons why men killed: There were four suicides, three lynchings, one infanticide, three murders while resisting arrest, three criminals killed while resisting arrest, two men killed in riots, eight murders in the course of committing burglaries and robberies, seven persons killed in vendettas, three race murders, and twenty-four killed in quarrels over petty causes; there were twelve murders from jealousy, followed in four instances by suicide on the part of the murderer; six killings justifiable on the "higher law" theory only, but

involving great provocation, and thirty deliberate slaughters. The last clipping recounted how an irate husband pounded a "masher" so hard that he died. Leaving out the suicides and those killed while resisting arrest, there remain one hundred persons murdered, not only by persons insane or wild from the effects of liquor, but by robbers and burglars, brutes, bullies, and thugs, husbands, wives, and lovers, and by a vast number of people who not only destroyed their enemies in the fury of anger, but in many instances openly went out gunning for them, lay in wait for them in the dark, or hacked off their heads with hatchets while they slept.

It is, indeed, a sanguinary record, from which little consolation is to be derived, and the only comfort is the probability that the accounts of the first one hundred murders anywhere in Europe would undoubtedly be just as blood-curdling. I had simply asked the clipping bureau to send me one hundred horrors and I had got them. They did not indicate anything at all so far as the ratio of homicide to population was concerned or as to the blood-thirstiness of Americans in general. They merely showed what despicable things murders were.

As to the reasons for the killings, they were as diverse as those which Mr. Nott had prosecuted, save that there were more of an ultra blood-thirsty character, due probably to the fact that the young lady who did the clipping wanted (after one rebuff) to make sure that I was satisfied with the goods she sent me. And this suggests a reason for the large

percentage of cold-blooded killings prosecuted by my friend—namely, that Mr. Nott being the most astute prosecutor available, the district attorney, whenever the latter had a particularly atrocious case, sent it to him in order that the defendant might surely get his full deserts.

The reasons for these homicides were of every sort; police officers and citizens were shot and killed by criminals trying to make "get-aways," and by negroes and others "running amuck"; despondent young men shot their unresponsive sweethearts and then either blew out their own brains or pretended to try to do so; two stable-men had a duel with revolvers, *and each killed the other*; several men were shot for being too attentive to young women residing in the same hotels; an Italian; whose wife had left him and gone to her mother, went to the house and killed her, her sister, her sister's husband, his mother-in-law, two children, and finally himself; the "Gopher Gang" started a riot at a "benefit" dance given to a widow and killed a man, after which they fled to the woods and fired from cover upon the police until eighteen were overpowered and arrested; a young girl and her fiancé, sitting in the parlor, planning their honeymoon, were unexpectedly interrupted by a rejected suitor of the girl's, who shot and killed both of them; an Italian who peeked into a bedroom, just for fun, afterward rushed in and cut off two persons' heads with an ax—one of them was his wife; a gang of white ruffians shot and then burned a negro family of three peacefully working in the fields; a man

who went to the front door to see who had tapped on his window was shot through the heart; a striker was killed by a twenty-five-pound piece of flagging thrown from a roof; there was a gun fight of colored men at Madison, Wisconsin, at which three were shot; a gang of negro ruffians killed and mutilated a white woman (with a baby in her arms) and her husband; masked robbers called a man to his barn at Winston-Salem, North Carolina, and cut his throat; an Italian was found with his head split in two by a butcher's cleaver; a negress in Lafayette, Louisiana, killed a family of six with a hatchet; a negro farmer and his two daughters were lynched and their bodies burned by four white men (who will probably also be lynched if caught); a girl of eleven shot her girl friend of about the same age and killed her; several persons were found stabbed to death; a plumber killed his brother (also a plumber) for saying that he stole two dollars; a murderer was shot by a posse of militia in a cornfield; a card game at Bayonne, New Jersey, resulted in a revolver fight on the street in which one of the players was killed; bank robbers killed a cashier at twelve o'clock noon; a jealous lover in Butte, Montana, shot and killed his sweetheart, her father, and mother; a deputy sheriff was murdered; burglars killed several persons in the course of their business; Kokolosski, a Pole, kicked his child to death; and a couple of dozen people were incidentally shot, stabbed, or otherwise disposed of in the course of quarrels over the most trivial matters. In almost no case was there what

an intelligent, civilized man would regard as an adequate *reason* for the homicide. They killed because they felt like killing, and yielded to the impulse, whatever its immediate origin.

This conclusion is abundantly supported by the figures of the *Chicago Tribune* for the seven years ending in 1900, when carefully analyzed. During this period 62,812 homicides were recorded. Of these there were 17,120 of which the causes were unknown and 3,204 committed while making a justifiable arrest, in self-defence, or by the insane, so that there were in fact only 42,488 felonious homicides the causes of which can be definitely alleged. The ratio of the "quarrels" to this net total is about seventy-five per cent. There were, in addition, 2,848 homicides due to liquor—that is, *without cause*. Thus eighty per cent of all the murders and manslaughters in the United States for a period of seven years were for no reason at all or from mere anger or habit, arising out of causes often of the most trifling character.

Nor are the conclusions changed by the figures of the years between 1904 and 1909.

During this period 61,786 homicides were recorded. Of these there were 9,302 of which the causes were not known, and 2,480 committed while making a justifiable arrest, in self-defence, or by the insane, leaving 50,004 cases of felonious homicides of known causes. Of these homicides, 33,476 were due to quarrels and 4,799 to liquor, a total of 38,275 out of the 50,004 cases of known causes being traceable in this, another seven years, to motives the most casual. J

It would be stupid to allege that the *reason* men killed was *because* they had been stepped on or had been deprived of a glass of beer. The cause lies deeper than that. It rests in the willingness or desire of the murderer to kill at all. Among barbaric or savage peoples this is natural; but among civilized nations it is hardly to be anticipated. If the negro who shoots his fellow because he believes himself to have been cheated out of ten cents were really civilized, he would either not have the impulse to kill or, having the impulse to kill, would have sufficient power of self-control to refrain from doing so. This power of self-control may be natural or acquired, and it may or may not be possessed by the man who feels a desire to commit a homicide. The fact to be observed—the interesting and, broadly speaking, the astonishing fact—is that among a people like ourselves anybody should have a desire to kill. It is even more astonishing than that the impulse should be yielded to so often if it comes.

This, then, is the real reason why men kill—because it is inherent in their state of mind, it is part of their mental and physical make-up—they are ready to kill, they want to kill, they are the kind of men who do kill. This is the result of their heredity, environment, educational and religious training, or the absence of it. How many readers of this paper have ever experienced an actual desire to kill another human being? Probably not one hundredth of one per cent. They belong to the class of people who either never have such an impulse, or at any rate

have been taught to keep such impulses under control. Hence it is futile to try to explain that some men kill for a trifling sum of money, some because they feel insulted, others because of political or labor disputes, or because they do not like their food. Any one of these may be the match that sets off the gunpowder, but the real cause of the killing is the fact that the gunpowder is there, lying around loose, and ready to be touched off. What engenders this gunpowder state of mind would make a valuable sociological study, but it may well be that a seemingly inconsequential fact may so embitter a boy or man toward life or the human race in general that in time he "sees red" and goes through the world looking for trouble. Any cause that makes for crime and depravity makes for murder as well. The little boy who is driven out of the tenement onto the street, and in turn off the street by a policeman, until, finding no wholesome place to play, he joins a "gang" and begins an incipient career of crime, may end in the "death house."

The table on the opposite page gives the figures collected by the *Chicago Tribune* for the years from 1881 to 1910.

In view of the foregoing it may seem paradoxical for the writer to state that he questions the alleged unusual tendency to commit murder on the part of citizens of the United States. Yet of one fact he is absolutely convinced—namely, that homicide *has substantially decreased in the last fifteen years*. Even according to the figures collected by the Chicago

*Tribune*, there were but 8,975 homicides in 1910 as compared with 10,500 in 1895, and 10,652 in 1896.

NUMBER OF MURDERS AND HOMICIDES IN THE UNITED STATES EACH YEAR SINCE 1881, COMPARED WITH THE POPULATION

| YEAR       | NUMBER OF MURDERS AND HOMICIDES IN THE UNITED STATES | ESTIMATED POPULATION OF THE UNITED STATES | NUMBER OF MURDERS AND HOMICIDES FOR EACH MILLION OF PEOPLE |
|------------|------------------------------------------------------|-------------------------------------------|------------------------------------------------------------|
| 1881.....  | 1,266                                                | 51,316,000                                | 24.7                                                       |
| 1882.....  | 1,467                                                | .....                                     | 27.9                                                       |
| 1883.....  | 1,697                                                | .....                                     | 31.6                                                       |
| 1884.....  | 1,465                                                | .....                                     | 26.7                                                       |
| 1885.....  | 1,808                                                | 56,148,000                                | 32.2                                                       |
| 1886.....  | 1,499                                                | .....                                     | 26.1                                                       |
| 1887.....  | 2,335                                                | .....                                     | 39.8                                                       |
| 1888.....  | 2,184                                                | .....                                     | 36.4                                                       |
| 1889.....  | 3,567                                                | .....                                     | 58.2                                                       |
| 1890.....  | 4,290                                                | 62,622,250                                | 68.5                                                       |
| 1891.....  | 5,906                                                | .....                                     | 92.4                                                       |
| 1892.....  | 6,791                                                | .....                                     | 104.2                                                      |
| 1893.....  | 6,615                                                | .....                                     | 99.5                                                       |
| 1894.....  | 9,800                                                | .....                                     | 144.7                                                      |
| 1895.....  | 10,500                                               | 69,043,000                                | 152.2                                                      |
| 1896.....  | 10,652                                               | .....                                     | 151.3                                                      |
| 1897.....  | 9,520                                                | .....                                     | 132.8                                                      |
| 1898.....  | 7,840                                                | .....                                     | 107.2                                                      |
| 1899.....  | 6,225                                                | .....                                     | 83.6                                                       |
| 1900.....  | 8,275                                                | 75,994,575                                | 108.7                                                      |
| 1901.....  | 7,852                                                | 77,754,000                                | 100.9                                                      |
| 1902.....  | 8,834                                                | 79,117,000                                | 111.7                                                      |
| 1903.....  | 8,976                                                | .....                                     | 112.0                                                      |
| 1904.....  | 8,482                                                | .....                                     | .....                                                      |
| 1905.....  | 9,212                                                | .....                                     | .....                                                      |
| 1906.....  | 9,350                                                | .....                                     | .....                                                      |
| 1907.....  | 8,712                                                | .....                                     | .....                                                      |
| 1908.....  | 8,952                                                | .....                                     | .....                                                      |
| 1909.....  | 8,103                                                | .....                                     | .....                                                      |
| 1910.....  | 8,975                                                | 91,972,266                                | 97.5                                                       |
| Total..... | 191,150                                              |                                           |                                                            |

Meantime the population of our country has been leaping onward.

We are blood-thirsty enough, God knows, without making things out any worse than they are or juggling the figures. Our murder rate per 100,000 unquestionably exceeds that of most of the countries of western Europe, but, as the saying is, "there's a reason." If our homicide statistics related only to the white population of even the *second generation born* in this country we should find, I am convinced, that we are no more homicidal than France and Belgium, and less so than Italy. It is to be expected that with our Chinese, "greaser," and half-breed population in the West, our Black Belt in the South, and our Sicilian and South Italian immigration in the North and East, our murder rate should exceed those of the continental nations, which are nothing if not well policed.

But of one thing we can be abundantly certain without any figures at all, and that is that our present method of administering justice (less the actions of juries than of judges)—the system taken as a whole—offers no deterrent to the embryonic or professional criminal. The administration of justice today is not the swift judgment of honest men upon a criminal act, but a clever game between judge and lawyer, in which the action of the jury is discounted entirely and the moves are made with a view to check-mating justice, not in the trial courtroom, but before the appellate tribunal two or three years later.

"My young feller," said a grizzled veteran of the criminal bar to me long years ago, after our jury had gone out, "there's lots of things in this game you

ain't got on to yet. Do you think I care what this jury does? Not one mite. I got a nice little error into the case the very first day—and I've set back ever since. S'pose we *are* convicted? I'll get Jim here [the prisoner] out on a certificate and it'll be two years before the Court of Appeals will get around to the case. Meantime Jim'll be out makin' money to pay me my fee—*won't you, Jim?* Then your witnesses will be gone, and nobody'll remember what on earth it's all about. You'll be down in Wall Street practicing real law yourself, and the indictment will kick around the office for a year or so, all covered with dust, and then some day I'll get a friend of mine to come in quietly and move to dismiss. And it'll be dismissed. Don't you worry! Why, a thousand other murders will have been committed in this county by the time that happens. Bless your soul! You can't go on tryin' the same man forever! Give the other fellers a chance. You shake your head? Well, it's a fact. I've been doin' it for forty years. You'll see." And I did. That may not be why men kill, but perhaps indirectly it may have something to do with it.

## CHAPTER V

### DETECTIVES AND OTHERS

A DETECTIVE, according to the dictionaries, is one "whose occupation it is to discover matters as to which information is desired, particularly wrongdoers, and to obtain evidence to be used against them." A private detective, by the same authority, is one "engaged unofficially in obtaining secret information for or guarding the private interests of those who employ him." The definition emphasizes the official character of detectives in general as contrasted with those whose services may be enlisted for hire by the individual citizen, but the distinction is of little importance, since it is based arbitrarily upon the character of the employer (whether the State or a private client) instead of upon the nature of the employment itself, which is the only thing which is likely to interest us about detectives at all.

The sanctified tradition that a detective was an agile person with a variety of side-whiskers no longer obtains even in light literature, and the most imaginative of us is frankly aware of the fact that a detective is just a common man earning (or pretending to earn) a common living by common and obvious means. Yet in spite of ourselves we are accustomed to attribute superhuman acuteness and a lightning-

like rapidity of intellect to this vague and romantic class of fellow-citizens. The ordinary work of a detective, however, requires neither of these qualities. Honesty and obedience are his chief requirements, and if he have intelligence as well, so much the better, provided it be of the variety known as horse sense. A genuine candidate for the job of Sherlock Holmes would find little competition. In the first place, the usual work of a detective does not demand any extraordinary powers of deduction at all.

Leaving out of consideration those who are merely private policemen (often in uniform), and principally engaged in patrolling residential streets, preserving order at fairs, race-tracks, and political meetings, or in breaking strikes and preventing riots, the largest part of the work for which detectives are employed is not in the detection of crime and criminals, but in simply watching people, following them, and reporting as accurately as possible their movements. These functions are known in the vernacular as spotting, locating, and trailing. It requires patience, some powers of observation, and occasionally a little ingenuity. The real detective under such circumstances is the man to whom they hand in their reports. Yet much of the most dramatic and valuable work that is done involves no acuteness at all, but simply a willingness to act as a spy and to brave the dangers of being found out.

There is nothing more thrilling in the pages of modern history than the story of the man (James McPartland) who uncovered the conspiracies of the

Molly McGuires. But the work of this man was that of a spy pure and simple.

Another highly specialized class of detectives is that engaged in police and banking work, who by experience (or even origin) have a wide and intimate acquaintance with criminals of various sorts, and by their familiarity with the latters' whereabouts, associates, work, and methods are able to recognize and run down the perpetrators of particular crimes.

Thus, for example, there are men in the detective bureau of New York City who know by name, and perhaps have a speaking acquaintance with, a large number of the pick-pockets and burglars of the East Side. They know their haunts and their ties of friendship or marriage. When any particular job is pulled off they have a pretty shrewd idea of who is responsible for it and lay their plans accordingly. If necessary, they run in the whole bunch and put each of them through a course of interrogation, accusation, and brow-beating until some one breaks down or makes a slip that involves him in a tangle. These men are special policemen whose knowledge makes them detectives by courtesy. But their work does not involve any particular superiority or quickness of intellect—the quality which we are wont to associate with the detection of crime.

Now, if the ordinary householder finds that his wife's necklace has mysteriously disappeared, his first impulse is to send for a detective of some sort or other. In general, he might just as well send for his mother-in-law. Of course, the police can and will

watch the pawnshops for the missing baubles, but no crook who is not a fool is going to pawn a whole necklace on the Bowery the very next day after it has been "lifted." Or he can enlist a private detective who will question the servants and perhaps go through their trunks, if they will let him. Either sort will probably line up the inmates of the house for general scrutiny and try to bully them separately into a confession. This may save the master a disagreeable experience, but it is the simplest sort of police work and is done vicariously for the taxpayer, just as the public garbage man relieves you from the burden of taking out the ashes yourself, because he is paid for it, not on account of your own incapacity or his superiority. Which, speaking of garbage, reminds the writer of a disconnected personal experience in which he endeavored to enlist the services of one of these latter specialists for the purpose of carrying a trunk on his wagon to the steamboat wharf.

"I'm sorry, sir," replied the gentleman in question, "I ain't used to handling trunks. They ain't in my line. But [proudly] *when it comes to swill, I'm as good as anybody !*"

The real detective is the one who, taking up the solution of a crime or other mystery, brings to bear upon it *unusual* powers of observation and deduction and an exceptional resourcefulness in acting upon his conclusions. Frankly, I have known very few such, although for some ten years I have made use of a large number of so-called detectives in both public and private matters. As I recall the long line of cases

where these men have rendered service of great value, almost every one resolves itself into a successful piece of mere spying or trailing. Little ingenuity or powers of reason were required. Of course, there are a thousand tricks that an experienced man acquires as a matter of course, but which at first sight seem almost like inspiration. I shall not forget my delight when Jesse Blocher, who had been trailing Charles Foster Dodge through the South (when the latter was wanted as the chief witness against Abe Hummel on the charge of subornation of perjury of which he was finally convicted), told me how he instantly located his man, without disclosing his own identity, by unostentatiously leaving a note addressed to Dodge *in a bright-red envelope* upon the office counter of the Hotel St. Charles in New Orleans, where he knew his quarry to be staying. A few moments later the clerk saw it, picked it up, and, as a matter of course, thrust it promptly into box No. 420, thus involuntarily hanging, as it were, a red lantern on Dodge's door.

There is no more reason to look for superiority of intelligence or mental alertness among detectives of the ordinary class than there is to expect it from clerks, stationary engineers, plumbers, or firemen. While comparisons are invidious, I should be inclined to say that the ordinary chauffeur was probably a brighter man than the average detective. This is not to be taken in derogation of the latter, but as a compliment to the former. There is more reason why he should be. There are a great many detectives of ambiguous training. I remember in a celebrated case

discovering that of the more important detectives employed by a well-known private Anti-Criminal Society in New York, one had been a street vender of frankfurters (otherwise yclept "hot dogs"), and another the keeper of a bird store, which last perhaps qualified him for the pursuit and capture of human game. There is a popular fiction that lawyers are shrewd and capable, similar to the prevailing one that detectives are astute and cunning in their methods. But, as the head of one of the biggest agencies in the country remarked to me the other day, when discussing the desirability of retaining local counsel in a distant city: "By thunder! *You* know how hard it is to find a lawyer that isn't a *dead one*." I feel confident that he did not mean this in the sense that there was no good lawyer except a dead lawyer. What my detective friend probably had in mind was that it was difficult to find a lawyer who brought to bear on a new problem any originality of thought or action. It is even harder to find a detective who is not in this sense a dead one. I have the feeling, being a lawyer myself, that (for educational reasons probably) it is harder to find a live detective than a live lawyer. There are a few of both, however, if you know where to look for them. But it is easy to fall into the hands of the Philistines.

The fundamental reason why it is so hard to form any just opinion of detectives in general is that (except by their fruits) there is little opportunity to discriminate between the able and the incapable. Now, the more difficult and complicated his task the less

likely is the sleuth (honest or otherwise) to succeed. The chances are a good deal more than even that he will never solve the mystery for which he is engaged. Thus at the end of three months you will have only his reports and his bill—which are poor comfort, to say the least. And yet he may have really worked eighteen hours per day in your service. But a dishonest detective has only to disappear (and take his ease for the same period) and send you *his* reports and *his* bill—and you will have only his word for how much work he has done and how much money he has spent. You are absolutely in his power—unless you hire *another* detective to watch *him*. Consequently there is no class in the world where the temptation to dishonesty is greater than among detectives—not even among plumbers, cabmen, butchers, and lawyers. (God knows the peril of all of these!) This, too, is, I fancy, the reason that the evidence of the police detective is received with so much suspicion by jurymen—they know that the only way for him to retain his position is by making a record and getting convictions, and hence they are always looking for jobs and frame-ups. If a police detective doesn't make arrests and send a man to jail every once in a while there is no conclusive way for his superiors to be sure he isn't loafing.

There are a very large number of persons who go into the detective business for the same reason that others enter the ministry—they can't make a living at anything else. Provided he has squint eyes and

a dark complexion, almost anybody feels that he is qualified to unravel the tangled threads of crime. The first resource of the superannuated or discharged police detective is to start an agency. Of course, he may be first class in spite of these disqualifications, but the presumption in the first instance is that he is no longer alert or effective, and in the second that in one way or another he is not honest. Agencies recruited from deposed and other ex-policemen usually have all the faults of the police without any of their virtues. There are many small agencies which do reliable work, and there are a number of private detectives in all the big cities who work single-handed and achieve excellent results. However, if he expects to accomplish anything by hiring detectives, the layman or lawyer must first make sure of his agency or his man.

One other feature of the detective business should not be overlooked. In addition to charging for services not actually rendered and expenses not actually incurred, there is in many cases a strong temptation to betray the interests of the employer. A private detective may, and usually does, become possessed of information even more valuable to the person who is being watched than to the person to whom he owes his allegiance. Unreliable rascals constantly sell out to the other side and play both ends against the middle. In this they resemble some of the famous diplomatic agents of history. And police detectives employed to run down criminals and protect society have been known instead to act as stalls for

bank burglars and (for a consideration) to assist them to dispose of their booty and protect them from arrest and capture. It has repeatedly happened that reliable private detectives have discovered that the police employed upon the same case have in reality been tipping off the criminals as to what was being done and coaching them as to their conduct. Of course the natural jealousy existing between official and unofficial agents of the law leads to a good many unfounded accusations of this character, but, on the other hand, the fact that much of the most effective police work is done by employing professional criminals to secure information and act as stool-pigeons often results in a definite understanding that the latter shall be themselves protected in the quiet enjoyment of their labors. The relations of the regular police to crime, however, and the general subject of police graft have little place in a chapter of this character.

The first question that usually arises is whether a detective shall or shall not be employed at all in any particular case. Usually the most important thing is to find out what the real character, past, and associations of some particular individual may be. Well-established detective agencies with offices throughout the country are naturally in a better position to acquire such information quickly than the private individual or lawyer, since they are on the spot and have an organized staff containing the right sort of men for the work. If the information lies in your own city you can probably hire some one to get it or

ferret it out yourself quite as well, and much more cheaply, than by employing their services. The leads are few and generally simple. The subject's past employers and business associates, his landlords and landladies, his friends and enemies, and his milkman must be run down and interrogated. Perhaps his personal movements must be watched. Any intelligent fellow who is out of a job will do this for you for about \$5 per day and expenses. The agencies usually charge from \$6 to \$8 (and up), and prefer two men to one, as a matter of convenience and to make sure that the subject is fully covered. If the suspect is on the move and trains or steamships must be met, you have practically no choice but to employ a national agency. It alone has the proper plant and equipment for the work. In an emergency, organization counts more than anything else. Where time is of the essence, the individual has no opportunity to hire his own men or start an organization of his own. But if the matter is one where there is plenty of leisure to act, you can usually do your own detective work better and cheaper than any one else.

Regarding the work of the detective as a spy (which probably constitutes seventy-five per cent of his employment to-day), few persons realize how widely such services are being utilized. The insignificant old Irishwoman who stumbles against you in the department store is possibly watching with her cloudy but eagle eye for shoplifters. The tired-looking man on the street-car may, in fact, be a professional "spotter." The stout youth with the *pince*

*nez* who is examining the wedding presents is perhaps a central-office man. All this you know or may suspect. But you are not so likely to be aware that the floor-walker himself is the agent of a rival concern placed in the department store to keep track, not only of prices but of whether or not the wholesalers are living up to their agreements in regard to the furnishing of particular kinds of goods only to one house; or that the conductor on the car is a paid detective of the company, whose principal duty is not to collect fares, but to report the doings of the unions; or that the gentleman who is accidentally introduced to you at the wedding breakfast is employed by a board of directors to get a line on your host's business associates and social companions.

In the great struggle between capital and labor, each side has expended large sums of money in employing confederates to secure secret information as to the plans and doings of the enemy. Almost every labor union has its Judas, and many a secretary to a capitalist is in the secret employment of a labor union. The railroads must be kept informed of what is going on, and, if necessary, they import a man from another part of the country to join the local organization. Often such men, on account of their force and intelligence, are elected to high office in the brotherhoods whose secrets they are hired to betray. Practically every big manufacturing plant in the United States has on its pay-rolls men acting as engineers, foremen, or laborers who are drawing from \$80 to \$100 per month as detectives either (1) to keep their employers

informed as to the workings of the labor unions, (2) to report to the directors the actual conduct of the business by its salaried officers, superintendents, and overseers, or (3) to ascertain and report to outside competing concerns the methods and processes made use of, the materials utilized, and the exact cost of production.

There are detectives among the chambermaids and bellboys in the hotels, and also among the guests; there are detectives on the passenger lists and in the cardrooms of the Atlantic liners; the colored porter on the private car, the butler at your friend's house, the chorus girl on Broadway, the clerk in the law office, the employee in the commercial agency, may all be drawing pay in the interest of some one else, who may be either a transportation company, a stock-broker, a rival financier, a yellow newspaper, an injured or even an erring wife, a grievance committee, or a competing concern; and the duties of these persons may and will range from the theft of mailing-lists, books, and papers, and (in the case of the newspaper) of private letters, up to genuine detective work requiring some real ability.

Apart from the hired thieves above referred to, some yellow journals employ men to work upon the various "mystery stories" that from time to time arouse the attention of the public, who often accomplish as good results as the police. I should, however, place one limitation upon this general statement, which is that, as the object of the newspaper is usually quite as much to keep the story

alive as to solve the mystery, the papers are apt to find startling significance in details of slight importance. While we are speaking of newspapers, it may not be out of place to suggest that their activity is such that there are few general evils left undisclosed and few prominent men the privacy of whose lives is not known in the editorial rooms. When lurid tales are told of the secret doings of Mr. So and So and the Hon. This and That, you may rest assured that the greater the desirability of those yarns as copy for the big dailies, the less likely they are to have any foundation in fact. The eye of the city editor is in every place discerning the evil if not the good. Indeed, it is almost unnecessary for the papers to hire spies, since self-constituted ones are ready at any moment to bargain with them for stolen goods and ruined reputations.

Detective work of the sort which involves the betrayal of confidences and friendships naturally excites our aversion—yet in many cases the end undoubtedly justifies the means employed, and often there is no other way to avert disaster and prevent fiendish crimes. Sometimes, on the other hand, the information sought is purely for mercenary or even less worthy reasons, and those engaged in these undertakings range from rascals of the lowest type to men who are ready to risk death for the cause which they represent and who are really heroes of a high order. One of the latter with whom I happened to be thrown professionally was a young fellow of about twenty named Guthrie.

It was during a great strike, and outrages were being committed all over the city of New\_York by dynamiters supposed to be in the employ of the unions. Young Guthrie, who was a reckless daredevil, offered his services to the employers, and agreed (for a trifling compensation) to join one of the local unions and try to find out who were the men blowing up office buildings in process of construction and otherwise terrorizing the inhabitants of the city. The story of his success deserves a chapter by itself, and it is enough here to state that he applied for membership in the organization, and by giving evidence of his courage and fiber managed to secure a place as a volunteer in the dynamiting squad. So cleverly did he pass himself off as a bitter enemy of capital that he was entrusted with secrets of the utmost value and took part in making the plans and procuring the dynamite to execute them. The quality of his nerve (as well as his foolhardiness) is shown by the fact that he once carried a dress-suit case full of the explosive around the city, jumping on and off street cars, and dodging vehicles. When the proper moment came and the dynamite had been placed in an uncompleted building on Twenty-second Street, Guthrie gave the signal and the police arrested the dynamiters—all of them, including Guthrie, who was placed with the rest in a cell in the Tombs and continued to report to the district attorney all the information which he thus secured from his unsuspecting associates. Indeed, it was hard to convince the authorities that Guthrie was a spy and not a mere

accomplice who had turned State's evidence, a distinction of far-reaching legal significance so far as his evidence was concerned.

The final episode in the drama was the unearthing by the police of Hoboken of the secret cache of the dynamiters, containing a large quantity of the explosive. Guthrie's instructions as to how they should find it read like a page from Poe's "Gold Bug." You had to go at night to a place where a lonely road crossed the Erie Railroad tracks in the Hackensack meadows, and mark the spot where the shadow of a telegraph pole (cast by an arc light) fell on a stone wall. (This you must climb and walk so many paces north, turn and go so many feet west, and then north again. You then came to a white stone, from which you laid your course through more latitude and longitude until you were right over the spot. The police of Hoboken did as directed, and after tacking round and round the field, *found the dynamite*. Of course, the union said the whole thing was a plant, and that Guthrie had put the dynamite in the field himself at the instigation of his employers, but before the case came to trial both dynamiters pleaded guilty and went to Sing Sing. One of them turned out to be an ex-convict, a burglar. I often wonder where Guthrie is now. He certainly cared little for his life. Perhaps he is down in Venezuela or Mexico. He could never be aught than a soldier of fortune. But for a long time the employers thought that Guthrie was a detective sent by the unions to compromise *them* in the very dynamiting they were trying to stop!

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I once had a particularly dangerous and unfortunate case where a private client was being blackmailed by a half-crazy ruffian who had never seen him, but had selected him arbitrarily as a person likely to give up money. The blackmailer was a German Socialist, who was out of employment—a man of desperate character. He had made up his mind that the world owed him a living, and he had decided that the easiest way to get it was to make some more prosperous person give him a thousand dollars under threat of being exposed as an enemy of society.

The charge was so absurd as to be almost ludicrous, but had my client caused the blackmailer's arrest the matter would have been the subject of endless newspaper notoriety and comment. It was therefore thought wise to make use of other means, and I procured the assistance of a young German-American of my acquaintance, who, in the guise of a vaudeville artist seeking a job, went to the blackmailer's boarding-house and pretended to be looking for an actor friend with a name not unlike that of the criminal.

After two or three visits he managed to scrape an acquaintance with the blackmailer and thereafter spent much time with him. Both were out of work, both were Germans, and both liked beer. My friend had just enough money to satisfy this latter craving. In a month or so they were intimate friends and used to go *fishing* together down the bay. At last, after many months, the criminal disclosed to the detective his plan of blackmailing my client, and suggested that as two heads were better than one they had

better make it a joint venture. The detective pretended to balk at the idea at first, but was finally persuaded, and at the other's request undertook the delivery of the blackmailing letters to my client! Inside of three weeks he had in his possession enough evidence in the criminal's *own handwriting* to send him to prison for the rest of his life. When at last the detective disclosed his identity the blackmailer at first refused to believe him, and then literally rolled on the floor in his agony and fear at discovering how he had been hoodwinked. The next day he disappeared and has not been heard of since, but his letters are in my vault, ready to be used if he again puts in an appearance.

The records of the police and of the private agencies contain many instances where murderers have confessed their guilt long after the crime to supposed friends, who were in reality decoys placed there for that very purpose. It is a peculiarity of criminals that they cannot keep their secrets locked in their own breasts. The impulse to confession is universal, particularly in women. Egotism has some part in this, but the chief element is the desire for companionship. Criminals have a horror of dying under an alias. The dignity of identity appeals even to the tramp. This impulse leads oftentimes to the most unnecessary and suicidal disclosures. The murderer who has planned and executed a diabolical homicide and who has retired to obscurity and safety will very likely in course of time make a clean breast of it to some one whom he believes to be his friend. He

wants to "get it off his chest," to talk it over, to discuss its fine points, to boast of how clever he was, to ask for unnecessary advice about his conduct in the future, to have at least one other person in the world who has seen his soul's nakedness.

The interesting feature of such confessions from a legal point of view is that, no matter how circumstantial they may be, they are not usually of themselves sufficient under our law to warrant a conviction. The admission or confession of a defendant needs legal corroboration. This corroboration is often very difficult to find, and frequently cannot be secured at all. This provision of the statutes is doubtless a wise one to prevent hysterical, suicidal, egotistical, and semi-insane persons from meeting death in the electric chair or on the gallows, but it often results in the guilty going unpunished. Personally, I have never known a criminal to *confess* a crime of which he was innocent. The nearest thing to it in my experience is when one criminal, jointly guilty with another and sure of conviction, has drawn lots with his pal, lost, confessed, and in the confession exculpated his companion.

In the police organization of almost every large city there are a few men who are genuinely gifted for the work of detection. Such an one was Petrosino, a great detective, and an honest, unselfish, and heroic man, who united indefatigable patience and industry with reasoning powers of a high order. The most thrilling evening of my life was when my wife and I listened before a crackling fire in my library to

Joe's story of the Van Cortlandt Park murder, the night before I was going to prosecute the case. Sitting stiffly in an arm-chair, his great, ugly moon-face expressionless save for an occasional flash from his black eyes, Petrosino recounted slowly and accurately how, by means of a single slip of paper bearing the penciled name "Sabbatto Gizzi, P. O. Box 239, Lambertville, N. J.," he had run down the unknown murderer of an unknown Italian stabbed to death in the park's shrubbery. The paper contained neither the name of the criminal nor his victim, but by means of this slender clue he had gone to Lambertville and found an Italian who had identified the deceased as a man who had left Lambertville for New York in the company of another Italian named Strollo. Petrosino interviewed Strollo, who admitted the trip but denied any knowledge of his companion's death. He had, he said, turned him over to his brother, for whom Strollo had been searching.

In Strollo's pocket Petrosino found a letter to the brother *from* Tony Torsielli, the murdered man. It was in Strollo's own handwriting and enclosed in an envelope *addressed to Torsielli himself* at Lambertville. This envelope bore a red two-cent stamp. On the basis of this letter, aided by Strollo's contradictory statements, Petrosino reconstructed the murder and demonstrated that there *was* no brother, that Strollo had *invented* him for the purpose of luring Torsielli to New York, and that he had acted as amanuensis for Torsielli and carried on the corre-

spondence for both. The envelope addressed in Strollo's handwriting to *Torsielli at Lambertville* was the key to the whole mystery. There was no reason why Strollo should be writing to his own friend whom he saw daily and who lived beside him in the same town. Neither, argued Petrosino, would there be any reason for putting on a *two-cent* stamp in a place so small as to have no mail delivery. Ergo, the envelope must have been intended to create the impression that it had been mailed from some other place, by another person—from whom but the fictitious brother? Bit by bit Petrosino built up a case entirely out of circumstantial evidence that demonstrated Strollo's guilt to a mathematical certainty. So vivid was Petrosino's account of his labors that in opening the case next day to the jury I had but to repeat the story I had heard the night before. Strollo was convicted after a week's trial before Judge O'Gorman in the Criminal Term of the Supreme Court and paid the penalty of his treachery in the electric chair. For him I felt not one pang of pity or remorse.

But during the preparation for the case the function of the detective as a decoy was demonstrated in a most effective manner. Strollo was confined in the House of Detention and a detective from head-quarters was introduced there as an ostensible prisoner, under the name of Silvio. Strollo and he became great friends, and when the former was removed to the Tombs the murderer wrote elaborately to the detective, requesting him to testify as a witness at the trial on his behalf and instructing him what to say in order

to establish an alibi. Those letters were the last nails in Strollo's coffin. After his conviction they were stolen by somebody and could not be included in the case on appeal, for which reason the court had some doubt as to whether the conviction should be affirmed. Before the Court of Appeals rendered its decision, however, I found, while cleaning out my safe, photographs of the letters which I had had taken as a precautionary measure, but the existence of which I had forgotten. I now have every important document that comes into my hands as evidence photographed as a matter of course.

Petrosino's physical characteristics were so pronounced that he was probably as widely, if not more widely, known than any other Italian in New York. He was short and heavy, with enormous shoulders and a bull neck, on which was placed a great round head like a summer squash. His face was pock-marked, and he talked with a deliberation that was due to his desire for accuracy, but which at times might have been suspected to arise from some other cause. He rarely smiled and went methodically about his business, which was to drive the Italian criminals out of the city and country. Of course, being a marked man in more senses than one, it was practically impossible to disguise himself, and, accordingly, he had to rely upon his own investigations and detective powers, supplemented by the efforts of the trained men in the Italian branch, many of whom are detectives of a high order of ability. If the life of Petrosino were to be written, it would be

a book unique in the history of criminology and crime, for this man was probably the only great detective of the world to find his career in a foreign country amid criminals of his own race.

I have instanced Petrosino as an example of a police detective of a very unusual type, but I have known several other men on the New York Police Force of real genius in their own particular lines of work. One of these is an Irishman who makes a specialty of get-rich-quick men, oil and mining stock operators, wire-tappers and their kin, and who knows the antecedents and history of most of them better than any other man in the country. He is ready to take the part of either a "sucker" or a fellow crook, as the exigencies of the case may demand.

And then there was old Tom Byrnes, of whom everybody knows. There are detectives—real ones—on the police force of all the great cities of the world to-day, most of them specialists, a few of them geniuses capable of undertaking the ferreting out of any sort of mystery, but the last are rare. The police detective usually lacks the training, education, and social experience to make him effective in dealing with the class of élite criminals who make high society their field. Yet, of course, it is this class of crooks who most excite our interest and who fill the pages of popular detective fiction.

The head-quarters man has no time nor inclination to follow the sporting duchess and the fictitious earl who accompanies her in their picturesque wanderings around the world. He is busy inside the confines

of his own country. Parents or children may disappear, but the mere seeking of oblivion on their part is no crime and does not concern him except by special dispensation on the part of his superiors. Divorced couples may steal their own children back and forward, royalties may inadvertently involve themselves with undesirables, governmental information exude from State portals in a peculiar manner, business secrets pass into the hands of rivals, race-horses develop strange and untimely diseases, husbands take long and mysterious trips from home—a thousand exciting and worrying things may happen to the astonishment, distress, or intense interest of nations, governments, political parties, or private individuals, which from their very nature are outside the purview of the regular police. Here, then, is the field of the secret agent or private detective, and here, forsooth, is where the detective of genuine deductive powers and the polished address of the so-called “man of the world” is required.

There are two classes of cases where a private detective must needs be used, if indeed any professional assistance is to be called in: first, where the person whose identity is sought to be discovered or whose activities are sought to be terminated is not a criminal or has committed no crime, and second, where, though a crime has been committed, the injured parties cannot afford to undertake a public prosecution.

For example, if you are receiving anonymous letters, the writer of which accuses you of all sorts of

unpleasant things, you would, of course, much prefer to find out who it is and stop him quietly than to turn over the correspondence to the police and let the writer's attorneys publicly cross-examine you at his trial as to your past career. Even if a diamond necklace is stolen from a family living on Fifth Avenue, there is more than an even chance that the owner will prefer to conceal her loss rather than to have her picture in the morning paper. Yet she will wish to find the necklace if she can.

When the matter has no criminal side at all, the police cannot be availed of, although we sometimes read that the officers of the local precinct have spent many hours in trying to locate Mrs. So-and-So's lost Pomeranian, or in performing other functions of an essentially private nature—most generously. But if, for example, your daughter is made the recipient, almost daily, of anonymous gifts of jewelry which arrive by mail, express, or messenger, and you are anxious to discover the identity of her admirer and return them, you will probably wish to engage outside assistance.

Where will you seek it? You can do one of two things: go to a big agency and secure the services of the *right man*, or engage such a man outside who may or may not be a professional detective. I have frequently utilized with success in peculiar and difficult cases the services of men whom I knew to be common-sense persons, with a natural taste for ferreting out mysteries, but who were not detectives at all. Your head book-keeper may have real talents in this direc-

tion—if he is not above using them. Naturally, the first essential is brains—and if you can give the time to the matter, your own head will probably be the best one for your purposes. If, then, you are willing to undertake the job yourself, all you need is some person or persons to carry out your instructions, and such are by no means difficult to find. I have had many a case run down by my own office force—clerks, lawyers, and stenographers, all taking a turn at it. Why not? Is the professional sleuth working on a fixed salary for a regular agency and doing a dozen different jobs each month as likely to bring to bear upon your own private problem as much intelligence as you yourself?

There is no mystery about such work, except what the detective himself sees fit to enshroud it with. Most of us do detective work all the time without being conscious of it. Simply because the matter concerns the theft of a pearl, or the betraying of a business or professional secret, or the disappearance of a friend, the opinion of a stranger becomes no more valuable. And the chances are equal that the stranger will make a bungle of it.

Many of the best available detectives are men who work by themselves without any permanent staff, and who have their own regular clients, generally law firms and corporations. Almost any attorney knows several such, and the chief advantage of employing one of them lies in the fact that you can learn just what their abilities are by personal experience. They usually command a high rate of re-

muneration, but deductive ability and resourcefulness are so rare that they are at a premium and can only be secured by paying it. These men are able, if necessary, to assume the character of a doctor, traveller, man-about-town, or business agent without wearing in their lapels a sign that they are detectives, and they will reason ahead of the other fellow and can sometimes calculate pretty closely what he will do. Twenty-five dollars a day will generally hire the best of them, and they are well worth it.

The detective business swarms with men of doubtful honesty and morals, who are under a constant temptation to charge for services not rendered and expenses not incurred, who are accustomed to exaggeration if not to perjury, and who have neither the inclination nor the ability to do competent work.

Once they get their clutches on a wealthy client, they resemble the shyster lawyer in their efforts to bleed him by stimulating his fears of publicity and by holding out false hopes of success, and thus prolonging their period of service. An unscrupulous detective will, almost as a matter of course, work on two jobs at once and charge *all* his time to each client. He will constantly report progress when nothing has been accomplished, and his expenses will fill pages of his notebook. Meantime his daily reports will fall like a shower of autumn leaves. In no profession is it more essential to know the man who is working for you. If you need a detective, get the best you can find, put a limit on the expense, and give him your absolute confidence.

## CHAPTER VI

### DETECTIVES WHO DETECT

IN the preceding chapter the writer discussed at some length the real, as distinguished from the fancied, attributes of detectives in general, and the weaknesses as well as the virtues of the so-called detective "agency." There are in the city of New York at the present time about one hundred and fifty licensed detectives. Under the detective license laws each of these has been required to file with the State comptroller written evidences of his good character, competency, and integrity, approved by five reputable freeholders of his county, and to give bond in the sum of two thousand dollars. He also has to pay a license fee of one hundred dollars per annum, but this enables him to employ as many "operators" as he chooses. In other words, the head of the agency may be a high-class man and his agents wholly undesirable citizens. How often this is the case is known to none better than the heads themselves. The strength and efficiency of a detective agency does not lie in the name at the top of its letter-paper, but in the unknown personnel of the men who are doing or shirking the work. I believe that most of the principals of the many agencies throughout the United States are animated by a serious desire to

give their clients a full return for their money and loyal and honest service. But the best intentions in the world cannot make up for the lack of untiring vigilance in supervising the men who are being employed in the client's service.

It is right here that the "national" has an immense advantage over the small agency which cannot afford to keep a large staff of men constantly on hand, but is forced to engage them temporarily as they may be needed. The "national" agency can shift its employees from place to place as their services are required, and the advantages of centralization are felt as much in this sort of work as in any other industry. The licensed detective who sends out a hurry call for assistants is apt to be able to get only men whom he would otherwise not employ. In this chapter, the word "national," as applied to a detective agency, refers not to the title under which such an agency may do its business, but to the fact that it is organized and equipped to render services all over the country.

In this connection it is worth noticing that the best detective agencies train their own operators, selecting them from picked material. The candidate must as a rule be between twenty and thirty-five years of age, sound of body, and reasonably intelligent. He gets pretty good wages from the start. From the comparatively easy work of watching or "locating," he is advanced through the more difficult varieties of "shadowing" and "trailing," until eventually he may develop into a first-class man

who will be set to unravel a murder mystery or to "rope" a professional criminal. But with years of training the best material makes few *real* detectives, and the *real* detective remains in fact the man who sits at the mahogany desk in the central office and presses the row of mother of pearl buttons in front of him.

If you know the heads or superintendents of the large agencies you will find that the "star" cases, of which they like to talk, are, for the most part, the pursuit and capture of forgers and murderers. The former, as a rule, are "spotted" and "trailed" to their haunts, and when sufficient evidence has been obtained the police are notified, and a raid takes place, or the arrest is made, by the State authorities. In the case of a murderer, in a majority of cases, his capture is the result of skilful "roping" by an astute detective who manages to get into his confidence. For example, a murder is committed by an Italian miner. Let us suppose he has killed his "boss," or even the superintendent or owner. He disappears. As the reader knows, the Italians are so secretive that it is next to impossible to secure any information—even from the relatives of a murdered man.

The first thing is to locate the assassin. An Italian detective is sent into the mine as a laborer. Months may elapse before he gets on familiar or intimate terms with his fellows. All the time he is listening and watching. Presently he hears something that indicates that the murderer is communicating with one of his old friends either directly or through third parties. It is then generally only a question of time

before his whereabouts are ascertained. Once he is "located" the same method is followed in securing additional evidence or material in the nature of a confession or admission tending to establish guilt. Having previously "roped" the murderer's friends, the detective now proceeds to the more difficult task of "roping" the murderer himself. Of course, the life of a detective in a Pennsylvania coal mine would be valueless if his identity were discovered, and yet the most daring pieces of detective work are constantly being performed under these and similar conditions. Where the criminal is not known, the task becomes far more difficult and at times exceedingly dangerous.

One of my own friends, an Italian gentleman, spent several months in the different mines of this country, where Italians are largely employed, investigating conditions and ascertaining for the benefit of his government the extent to which anarchy was prevalent. It was necessary for him to secure work as a miner at the lowest wages and to disguise himself in such a way that it would be impossible for anybody to detect his true character. Fortunately, the great diversity of Italian dialects facilitated his efforts and enabled him to pass himself off as from another part of the country than his comrades. Having made his preparations he came to New York as an immigrant and joined a party of newly arrived Italians on their way to the coal mines of West Virginia. Without following him further, it is enough to say that during his service in the mines he over-

heard much that was calculated to interest exceedingly the authorities at Rome. Had his disguise been penetrated the quick thrust of a five-inch blade would have ended his career. He would never have returned to New York. There would only have been another dead "Dago" miner. The local coroner would have driven up in his buggy, looked at the body, examined the clean, deep wound in the abdomen, shrugged his shoulders, and empanelled a heterogeneous jury who would have returned a verdict to the effect that "deceased came to his death through a stab wound inflicted by some person to the jury unknown." My friend was not a professional detective, but the recital of his experiences was enough to fill me with new respect for those engaged in the "man hunt" business among the half civilized miners of the coal regions.

But the work of even the "national" agencies is not of the kind which the novel-reading public generally associates with detectives—that is to say, it rarely deals with the unravelling of "mysteries," except the identity of passers of fraudulent paper and occasional murderers. The protection of the banks is naturally the most important work that such an agency can perform.

The National Bankers' Association consists of eleven thousand members. "Pinkerton's Bank and Bankers' Protection" has a large organization of subscribers. These devote themselves to identifying and running down all criminals whose activities are dangerous to them. Here the agency and the

police work hand in hand, exchanging photographs of crooks and suspects and keeping closely informed as to each other's doings. Yet there is no official connection between any detective agency and the police of any city. It is an almost universal rule that a private detective shall not make an arrest. The reasons for this are manifold. In the first place, the private detective has neither the general authority nor the facilities for the manual detention of a criminal. A blue coat and brass buttons, to say nothing of a night stick, are often invaluable stage properties in the last act of the melodrama. And as the criminal authorities are eventually to deal with the defendant anyway, it is just as well if they come into the case as soon as may be. It goes without saying, of course, that a detective *per se* has no more right to make an arrest than any private citizen—nor has a policeman, for that matter, save in exceptional cases. The officer is valuable for his dignity, avoirdupois, "bracelets," and other accessories. The police thus get the credit of many arrests in difficult cases where all the work has been done by private detectives, and it is good business for the latter to keep mum about it.

One of the chief assets of the big agency is its accumulated information concerning all sorts of professional criminals. Its galleries are quite as complete as those of the local head-quarters, for a constant exchange of art objects is going on with the police throughout the world. And as the agency is protecting banks all over the United States it has greater interest in *all* bank burglars as a class than

the police of any particular city who are only concerned with the burglars who (as one might say) burgle in their particular burg. Thus, you are more likely to find a detective from a national agency following a forger to Australasia or Polynesia than you are a sleuth from 300 Mulberry Street, New York.

The best agencies absolutely decline to touch divorce and matrimonial cases of any sort. It does not do a detective agency any good to have its men constantly upon the witness stand subject to attack, with a consequent possible reflection upon their probity of character and truthfulness. Moreover, a good detective is too valuable a person to be wasting his time in the court-room. In the ordinary divorce case the detective, having procured his evidence, is obliged to remain on tap and subject to call as a witness for at least three or four months, during which time he cannot be sent away on distant work. Neither can the customer be charged ordinarily for waiting time, and apart from its malodorous character the business is not desirable from a financial point of view.

The national agencies prefer clean criminal work, murder cases, and general investigating. They no longer undertake any policing, strike-breaking, or guarding. The most ridiculous misinformation in regard to their participation in this sort of work has been spread broadcast largely by jealous enemies and by the labor unions.

By way of illustration, one Thomas Beet, describing himself as an English detective, contributed an

article to the New York *Tribune* of September 16, 1906, in which he said:

"In one of the greatest of our strikes, that involving the steel industry, over two thousand armed detectives were employed supposedly to protect property, while several hundred more were scattered in the ranks of strikers as workmen. Many of the latter became officers in the labor bodies, helped to make laws for the organizations, made incendiary speeches, cast their votes for the most radical movements made by the strikers, participated in and led bodies of the members in the acts of lawlessness that eventually caused the sending of State troops and the declaration of martial law. While doing this, these spies within the ranks were making daily reports of the plans and purposes of the strikers. To my knowledge, when lawlessness was at its height and murder ran riot, these men wore little patches of white on the lapels of their coats so that their fellow detectives of the two thousand would not shoot them down by mistake."

He, of course, referred to the great strike at Homestead, Pennsylvania, in 1892. In point of fact, there were only six private detectives engaged on the side of the employers at that time, and these were there to assist the local authorities in taking charge of six hundred and fifty watchmen, and to help place the latter upon the property of the steel company. These watchmen were under the direction of the sheriff and sworn in as peace officers of the county. Mr. Beet seems to have confused his history and mixed up the

white handkerchief of the Huguenots of Nantes with the strike-breakers of Pennsylvania. It is needless to repeat (as Mr. Robert A. Pinkerton stated at the time) that the white label story is ridiculously untrue, and that it was the strikers who attacked the watchmen, and not the watchmen the strikers. One striker and *one* watchman were killed.

But this attack of Mr. Beet upon his own profession, under the guise of being an English detective (it developed that he was an ex-divorce detective from New York City), was not confined to his remarks about inciting wanton murder. On the contrary, he alleged (as one having authority and not merely as a scribe) that American detective agencies were practically nothing but blackmailing concerns, which used the information secured in a professional capacity to extort money from their own clients.

"Think of the so-called detective," says Mr. Beet, "whose agency pays him two dollars or two dollars and fifty cents a day, being engaged upon confidential work and in the possession of secrets that he knows *are worth money!* Is it any wonder that so many cases are sold out by employees, *even* when the agencies are honest?"

We are constrained to answer that it is no more wonderful than that any person earning the same sum should remain honest when he might so easily turn thief. As the writer has himself pointed out in these pages, there are hundreds of so-called detective agencies which are but traps for the guileless citizen who calls upon them for aid. But there are many

which are as honestly conducted as any other variety of legitimate business. I do not know Mr. Beet's personal experience, but it appears to have been unfortunate. At any rate, his diatribe is unfounded and false, and the worst feature of it is his assertion that detective agencies make a business of manufacturing cases when there happen to be none on hand.

"Soon," says he, "there were not enough cases to go around, and then with the aid of spies and informers the unscrupulous detectives began to make cases. Agencies began to work up evidence against persons and then resorted to blackmail, or else approached those to whom the information might be valuable, and by careful manœuvring had themselves retained to unravel the case. This brought into existence hordes of professional informers who secured the opening wedges for the fake agencies. Men and women, many of them of some social standing, made it a practice to pry around for secrets which might be valuable; spies kept up their work in large business establishments and began to haunt the cafés and resorts of doubtful reputation, on the watch for persons of wealth and prominence who might be foolish enough to place themselves in compromising circumstances. Even the servants in wealthy families soon learned that certain secrets of the master and mistress could be turned to profitable account. We shudder when we hear of the system of espionage maintained in Russia, while in the large American cities, unnoticed, are organizations of spies and informers on every

hand who spend their lives digging pitfalls for the unwary who can afford to pay."

One would think that we were living in the days of the Borgias! "Ninety per cent," says Mr. Beet, "of private detective agencies are rotten to the core and simply exist and thrive upon a foundation of dishonesty, deceit, conspiracy, and treachery to the public in general and their own patrons in particular. There are detectives *at the heads of prominent agencies* in this country whose pictures adorn the Rogues' Gallery; men who have served time in various prisons for almost every crime on the calendar."

This harrowing picture has the modicum of truth that makes it insidiously dangerous. But this last extravagance betrays the denunciator. One would be interested to have this past-master of overstatement mention the names of these distinguished crooks that *head the prominent agencies*. Their exposure, if true, would not be libellous, and it would seem that he had performed but half his duty to the public in refraining from giving this important, if not vital, information.

I know several of these gentlemen whose pictures I feel confident do not appear in and (much less) do not adorn the Rogues' Gallery, and who have not been, as yet, convicted of crime. A client is as safe in the hands of a good detective agency as he is in the hands of a good lawyer; he should know his agency, that is all—just as he should know his lawyer. The men at the head of the big agencies generally take the same pride in their work as the members of

any learned profession. They know that a first-class reputation for honesty is essential to their financial success and that good will is their stock in trade. Take this away and they would have nothing.

In 1878 the founder of one of the most famous of our national agencies promulgated in printed form for the benefit of his employees what he called his general principles. One of these was the following:

"This agency only offers its services at a stated per diem for each detective employed on an operation, giving no guarantee of success, except in the reputation for reliability and efficiency; and any person in its service who shall, under any circumstances, permit himself or herself to receive a gift, reward, or bribe shall be instantly dismissed from the service."

Another:

"The profession of the detective is a high and honorable calling. Few professions excel it. He is an officer of justice, and must himself be pure and above reproach."

Again:

"It is an evidence of the unfitness of the detective for his profession when he is compelled to resort to the use of intoxicating liquors; and, indeed, the strongest kind of evidence, if he continually resorts to this evil practice. The detective must not do anything to farther sink the criminal in vice or debauchery, but, on the contrary, must seek to win his confidence by endeavoring to elevate him, etc."

"Kindness and justice should go hand in hand, whenever it is possible, in the dealings of the detec-

tive with the criminal. There is no human being so degraded but there is some little bright spark of conscience and of right still existing in him."

Last:

"The detective must, in every instance, report everything which is *favorable* to the suspected party, as well as everything which may be against him."

The man who penned these principles had had the safety of Abraham Lincoln in his keeping; and these simple statements of his faith are the best refutation of the baseless assertions above referred to.

It may be that in those days the detection of crime was a bit more elementary than at the present time. One can hardly picture a modern sleuth delaying long in an attempt to evangelize his quarry, but these general principles are the right stuff and shine like good deeds in a naughty world.

As one peruses this little pink pamphlet he is constantly struck by the repeated references to the detective as an *actor*. That *was* undoubtedly the ancient concept of a sleuth. "He must possess, also, the player's faculty of assuming any character that his case may require, and of acting it out to the life with an ease and naturalness which shall not be questioned." This somewhat large order is, to our relief, qualified a little later on. "It is not to be expected, however," the author admits, "that *every* detective shall possess these rare qualifications, although the more talented and versatile he is, the higher will be the sphere of operation which he will command."

The modern detective agency is conducted on

business principles and does not look for histrionic talent or general versatility. As one of the heads of a prominent agency said to me the other day:

"When we want a detective to take the part of a plumber *we get a plumber*, and when we need one to act as a boiler-maker we go out and get a *real one*—if we haven't one on our pay rolls."

"But," I replied, "when you need a man to go into a private family and pretend to be an English clergyman, or a French viscount, or a brilliant man of the world—who do you send?"

The "head" smiled.

"The case hasn't arisen yet," said he. "When it does I guess we'll get the real thing."

The national detective agency, with its thousands of employees who have, most of them, grown up and received their training in its service, is a powerful organization, highly centralized, and having an immense sinking fund of special knowledge and past experience. This is the product of decades of patient labor and minute record. The agency which offers you the services of a Sherlock Holmes is a fraud, but you can accept as genuine a proposition to run down any man whose picture you may be able to identify in the gallery. The day of the impersonator is over. The detective of this generation is a hard-headed business man with a stout pair of legs.

This accumulated fund of information is the heritage of an honest and long established industry. It is seventy-five per cent of its capital. It is entirely beyond the reach of the mushroom agency, which in

consequence has to accept less desirable retainers involving no such requirements, or go to the wall. The collection of photographs is almost priceless and the clippings, letters, and memoranda in the filing cases only secondarily so. Very few of the "operators" pretend to anything but common-sense with, perhaps, some special knowledge of the men they are after. They are not clairvoyants or mystery men, but they will tirelessly follow a crook until they get him. They are the regular troops who take their orders without question. The real "detective" is the "boss" who directs them.

The reader can easily see that in all cases where a crime, such as forgery, is concerned, once the identity of the criminal is ascertained, half the work (or more than half) is done. The agencies know the face and record of practically every man who ever flew a bit of bad paper in the United States, in England, or on the Continent. If an old hand gets out of prison his movements are watched until it is obvious that he does not intend to resort to his old tricks. After the criminal is known or "located," the "trailing" begins and his "connections" are carefully studied. This may or may not require what might be called *real* detective work; that is to say, work requiring a superior power of deducing conclusions from first-hand information, coupled with unusual skill in acting upon them. Mere trailing is often simple, yet sometimes very difficult. A great deal depends on the operator's own peculiar information as to his man's habits, haunts, and associates. It is very hard

to say in most cases just where mere knowledge ends and detective work proper begins. As for disguises, they are almost unknown, except such as are necessary to enable an operator to join a gang where his quarry may be working and "rope" him into a confession.

Detective agencies of the first-class are engaged principally in clean-cut criminal work, such as guarding banks from forgers and "yeggmen"—an original and dangerous variety of burglar peculiar to the United States and Canada. In other words, they have large associations for clients who need more protection than the regular police can give them, and whose interest it is that the criminal shall not only be driven out of town, but run down (wherever he may be), captured, and put out of the way for as long a time as possible.

The work done for private individuals is no less important and effective, but it is secondary to the other. The great value of the "agency" to the victim of a theft is the speed with which it can disseminate its information—something quite impossible so far as the individual citizen is concerned. Let me give an illustration or two.

Between 10.30 p. m. Saturday, February 25, 1911, and 9.30 a. m. Sunday, February 26, 1911, one hundred and thirty thousand dollars worth of pearls belonging to Mrs. Maldwin Drummond were stolen from a stateroom on the steamship *Amerika* of the Hamburg-American line. The London underwriters cabled five thousand dollars reward and retained to

investigate the case a well-known American agency, which before the *Amerika* had reached Plymouth on her return trip had their notifications in the hands of all the jewelers and police officials of Europe and the United States, and had covered every avenue of disposal in North and South America. In addition, this agency investigated every human being on the *Amerika* from first cabin to forecastle.

Within a year or so an aged stock-broker, named Bancroft, was robbed on the street of one hundred thousand dollars in securities. Inside of fifty-five minutes after he had reported his loss a detective agency had notified all banks, brokers, and the police in *fifty-six* cities of the United States and Canada.

The telephone is the modern detective's chief ally, and he relies upon rapidity more than upon deduction. Under present conditions it is easier to overtake a crook than to reason out what he will probably do. In fact, the old-fashioned "deductive detective" is largely a man of the past. The most useless operator in the world is the one who is "wedded to his own theory" of the case—the man who asks no questions and relies only on himself. Interject a new element into a case and such a man is all at sea. In the meantime the criminal has made his "get away."

In the story books your detective scans with eagle eye the surface of the floor for microscopic evidences of crime. His mind leaps from a cigar ash to a piece of banana peel and thence to what the family had for dinner. His brain is working all the time.

His gray matter dwarfs almost to insignificance that of Daniel Webster or the Hon. Benjamin F. Butler. It is, of course, all quite wonderful and most excellent reading, and the old-style sleuth really thought he could do it! Nowadays, while the fake detective is snooping around the back piazza with a telescope, the real one is getting the "dope" from the village blacksmith or barber (if there is any except on Saturday nights) or the girl that slings the pie at the station. These folk have something to go on. They may not be highly intelligent, but they know the country, and, what is more important, they know the people. All the brains in the world cannot make up for the lack of an elementary knowledge of the place and the characters themselves. It stands to reason that no strange detective could form as good an opinion as to which of the members of your household would be most likely to steal a piece of jewelry as you could yourself. Yet the old-fashioned Sherlock knew and knows it all.

One of the best illustrations of the practical necessity of some first-hand knowledge is that afforded by the recovery of a diamond necklace belonging to the wife of a gentleman in a Connecticut town. The facts that are given here are absolutely accurate. The gentleman in question was a retired business man of some means who lived not far from the town and who made frequent visits to New York City. He had made his wife a present of a fifteen thousand-dollar diamond necklace, which she kept in a box in a locked trunk in her bedroom. *While she had*

*owned the necklace for over a year she had never worn it.* One evening having guests for dinner on the occasion of her wedding anniversary she decided to put it on and wear it for the first time. That night she replaced it in its box and enclosed this in another box, which she locked and placed in her bureau drawer. This she also locked. The following night she decided to replace the necklace in the trunk. She accordingly unlocked the bureau drawer, and also the larger box, which apparently was in exactly the same condition as when she had put it away. But the inner box was empty and the necklace had absolutely disappeared. Now, no one had *seen* the necklace for a year, and then only her husband, their servants, and two or three old friends. *No outsider could have known of its existence.* There was no evidence of the house or bureau having been disturbed.

A New York detective agency was at once retained, which sent one of its best men to the scene of the crime. He examined the servants, heard the story, and reported that it *must have been* an inside job—that there was *no possibility* of anything else. But there was nothing to implicate any one of the servants, and there seemed no hope of getting the necklace back. Two or three days later the husband turned up at the agency's office in New York, and after beating about the bush for a while, remarked:

"I want to tell you something. You have got this job wrong. There's one fact your man didn't understand. The truth is that I'm a pretty easy going sort

of a feller, and every six months or so I take all the men and girls employed around my house down to Coney Island and give 'em a rip-roaring time. I make 'em my friends, and I dance with the girls and I jolly up the men, and we are all good pals together. Sort of unconventional, maybe, but it pays. I *know*—see?—that there ain't a *single one* of those people who would do me a mean trick. Not one of 'em but would lend me all the money he had. I don't care *what* your operator says, the person who took that necklace came from outside. You take that from me."

The superintendent, who is wise in his generation, scratched his chin.

"Is that dead on the level?" he inquired.

"Gospel!" answered the other.

"I'll come up myself!" said the boss.

Next day the boss behind a broken-winded horse, in a dilapidated buggy, drove from another town to the place where his client lived. At the smithy on the cross-roads he stopped and borrowed a match. The smith, glad of an excuse to leave the heat of the forge, came out and got the loan of a chew from the boss.

"Anybody have any good hosses in this town?" asked the detective.

"Betcher life!" answered the smith. "Mr. —— up on the hill has the best in the county!"

"What sort of a feller is he?"

The smith chewed in silence for a moment.

"Don't know him myself, but I tell you what, his

help says he's the best employer they ever had—and they *stay* there forever!"

The boss drove on to the house, which he observed was situated at about an equal distance from three different railway stations and surrounded by a piazza with pillars. He walked around it, examining the vines until his eye caught a torn creeper and a white scratch on the paint. It *had* been an outside job after all, and two weeks had already been lost. *Deduction* was responsible for a mistake which would not have occurred had a little *knowledge* been acquired first. That is the lesson of this story.

The denouement, which has no lesson at all, is interesting. The superintendent saw no prospect of getting back the necklace, but before so informing the client, decided to cogitate on the matter for a day or two. During that time he met by accident a friend who made a hobby of studying yeggmen and criminals and occasionally doing a bit of the amateur tramp act himself.

"By the way," said the friend, "do you ever hear of any 'touches' up the river or along the Sound?"

"Sometimes," answered the boss, pricking up his ears. "Why do you ask?"

"Why, the other night," replied the friend, "I happened to be meeting my wife up at the Grand Central about six o'clock and I saw two yeggs that I knew taking a train *out*. I thought it was sort of funny. Pittsburgh Ike and Denver Red."

"When was it?"

"Two weeks ago," said the friend.

"Thanks," returned the boss. "You must excuse me now; I've got an important engagement."

Three hours later Pittsburgh Ike and Denver Red were in a cell at head-quarters. *At six o'clock that evening the necklace had been returned.* This was a coincidence that might not occur in a hundred years, but had the deductive detective determined the question he would still be pondering on the comparative probability of whether the cook, the chore man, or the hired girl was the guilty party.

A clean bit of detection on the part of an agency, and quite in the day's work, was the comparatively recent capture of a thief who secured three hundred and sixty thousand dollars worth of securities from a famous banking institution in New York City by means of a very simple device. A firm of stock brokers had borrowed from this bank about two hundred and fifty thousand dollars for a day or two and put up the securities as collateral. In the ordinary course of business, when the borrower has no further use for the money, he sends up a certified check for the amount of the loan with interest, and the bank turns over the securities to the messenger. In this particular case a messenger arrived with a certified check, shoved it into the cage, and took away what was pushed out to him in return—three hundred and sixty thousand dollars in bonds. The certification turned out to be a forgery and the securities vanished. I do not know whether the police were consulted or not. Sometimes in such cases the banks prefer to resort to more private methods and, per-

haps, save the necessity of making a public admission of their stupidity. When my friend, the superintendent, was called in, the officers of the bank were making the wildest sort of guesses as to the identity of the master mind and hand which had deceived the cashier. He must, they felt sure, have made the forgery with a camel's hair brush of unrivalled fineness.

"A great artist!" said the president.

"The most skilful forger in the world!" opined another.

"We must run down all the celebrated criminals!" announced a third.

"Great artist—nothing!" remarked the boss, rubbing his thumb over the certification which blurred at the touch. "He's no painter! Why, that's a rubber stamp!"

What a shock for those dignified gentlemen! To think that *their* cashier had been deceived by a mere, plebeian, common or garden thing of rubber!

"Good-day, gents!" said the boss, putting the check in his wallet. "I've got to get busy with the rubber stamp makers!"

He returned to his office and detailed a dozen men to work on the East Side and a dozen on the West Side, with orders to search out every man in New York who manufactured rubber stamps. Before the end of the afternoon the maker was found on the Bowery, near Houston Street. This was his story: A couple of weeks before, a young man had come in and ordered a certification stamp, drawing

at the time a rough design of what he wanted. The stamp, when first manufactured, had not been satisfactory to him; and on his second visit, the customer had left a piece of a check, carefully torn out in circular form, which showed the certification which he desired copied. This fragment the maker had retained, as well as a slip of paper, upon which the customer had written the address of the place to which he wished the stamp sent—The Young Men's Christian Association! The face of the fragment showed a part of the maker's signature. The superintendent ran his eye over a list of brokers and picked out the name of the firm most like the hieroglyphics on the check. Then he telephoned over and asked to be permitted to see their pay roll. Carefully comparing the signature appearing thereon with the Y. M. C. A. slip, he picked his man in less than ten minutes. The latter was carefully trailed to his home, and thence to the Young Men's Christian Association, after which he called on his fiancée at her father's house. He spent the night at his own boarding place. Next morning (Sunday) he was arrested on his way to church, and all the securities (except some that he later returned) were discovered in his room. More quick work! The amateur's method had been very simple. He knew that the loan had been made and the bonds sent to the bank. So he forged a check, certified it himself, and collected the securities. Of course, he was a bungler and took a hundred rash chances.

A good example of the value of the accumulated

information—documentary, pictorial, and otherwise—in the possession of an agency was the capture of Charles Wells, more generally known as Charles Fisher, *alias* Henry Conrad, an old-time forger, who suddenly resumed his activities after being released from a six-year term in England. A New York City bank had paid on a bogus two hundred and fifty dollar check and had reported its loss to the agency in question. The superintendent examined the check and (although Fisher had been in confinement for six years on the other side) spotted it for his work. The next step was to find the forger. Of course, no man who does the actual “scratching” attempts to “lay down” the paper. That task is up to the “presenter.” The cashier of the bank identified in the agency’s gallery the picture of the man who had brought in the two hundred and fifty dollar check, and he in turn proved to be another ex-convict well known in the business, whose whereabouts in New York were not difficult to ascertain. He was “located” and “trailed” and all his associates noted and followed. In due course he “connected up” (as they say) with Fisher. Now, it is one thing to follow a man who has no idea that he is being followed and another to trail a man who is as suspicious and elusive as a fox. A professional criminal’s daily business is to observe whether or not he is being followed, and he rarely if ever, makes a direct move. If he wants a drink at the saloon across the street, he will, by preference, go out the back door, walk around the block and dodge in the side entrance via the tail of an ice wagon. In

this case the detectives followed the presenter for days before they reached Fisher, and when they did they had still to locate his "plant."

The arrest in this case illustrates forcibly the chief characteristic of successful criminals—egotism. The essential quality of daring required in their pursuits gives them an extraordinary degree of self-confidence, boldness, and vanity. And to vanity most of them can trace their fall. It seems incredible that Fisher should have returned to the United States after his discharge from prison and immediately resumed his operations without carefully concealing his impedimenta. Yet when he was run down in a twenty-six family apartment house, the detectives found in his valise several thousand blank and model checks, hundreds of letters and private papers, a work on "Modern Bank Methods," and his "ticket of leave" from England! This man was a *successful* forger and because he was successful, his pride in himself was so great that he attributed his conviction in England to *accident* and really felt that he was immune on his release.

The arrest of such a man often presents great legal difficulties which the detectives overcome by various practical methods. There is no man in the world who "gets away" with so many "tricks" on his "chest" as the sleuth. As they say, "*It's the way we do it.*" Of course, no officer without a search warrant has a right to enter a house or an apartment. A man's house is his castle. Mayor Gaynor, when a judge, in a famous opinion (more familiarly known

in the lower world even than the Decalogue) laid down the law unequivocally and emphatically in this regard. Thus, in the Fisher case, the defendant having been arrested on the street, the detectives desired to search the apartment of the family with which he lived. They did this by first inducing the tenant to open the door and, after satisfying themselves that they were in the right place, ordering the occupants to get in line and "march" from one room to another while they rummaged for evidence. "Of course, we had no right to do it, but they didn't *know* we hadn't!" said the boss.

But frequently the defendant knows his rights just as well as the police. On one occasion the same detective who arrested Fisher wanted to take another man out of an apartment where he had been run to earth. His mother (aged eighty-two years) put the chain on the door and politely instructed the detective (who had no warrant) to go to purgatory. All the evidence against the forger was inside the apartment and he was actively engaged in burning it up in the kitchen stove. In half an hour to arrest him would have been useless! The detectives stormed and threatened, but the old crone merely grinned at them. She hated a "bull" as much as did her son. Fearing to take the law into their own hands, they summoned a detective sergeant from head-quarters, but, although he sympathized with them, he had read Mayor Gaynor's decision and declined to take any chances. They then "appealed" to the cop on the

beat, who proved more reasonable, but although he used all his force, he was unable to break down the door which had in the meantime been reinforced from the inside. After about an hour, the old lady unchained the door and invited the detectives to come in. The crook was sitting by the window smoking a cigar and reading *St. Nicholas*, while all evidence of his crime had vanished in smoke.

One more anecdote at the expense of the deductive detective. A watchman was murdered, the safe of a brewery blown open and the contents stolen. Local detectives worked on the case and satisfied themselves that the night engineer at the brewery had committed the crime. He was a quiet and, apparently, a God-fearing man, but circumstances were conclusive against him. In fact, he had been traced within ten minutes of the murder on the way to the scene of the homicide. But some little link was lacking and the brewery officials called in the agency. The first thing the superintendent did was to look over the engineer. *At first sight he recognized him as a famous crook who had served five years for a homicidal assault!* One would think that that would have settled the matter. But it didn't! The detective said nothing to his associates or employers, but called on the engineer that evening and had a quiet talk with him in which he satisfied himself that the man *was entirely innocent*. The man had served his time, turned over a new leaf, and was leading an honest, decent life. Two months later the superintendent caused the arrest of four

yeggmen, all of whom were convicted and are now serving fifteen years each for the crime.

Thus, the reader will observe that there are just a few more real detectives still left in the business—if you can find them. Incidentally, they, one and all, take off their hats to Scotland Yard. They will tell you that the Englishman may be slow (fancy an American inspector of police wearing gray suede gloves and brewing himself a dish of tea in his office at four o'clock!), but that once he goes after a crook he is bound to get him—it is merely a question of time. I may add that in the opinion of the heads of the big agencies the percentage of ability in the New York Detective Bureau is high—one of them going so far as to claim that fifty per cent of the men have real detective ability—that is to say “brains.” That is rather a higher average than one finds among clergymen and lawyers, yet it may be so.

## **THE CAMORRA**



## CHAPTER VII

### THE CAMORRA IN ITALY

*We are not Carabinieri,  
We are not Royalists,  
But we are Camorristi—  
The devil take the others!*

IN Italy, when it rains, the man on the street mutters: "*Piove! Governo ladro!*" (It rains! Thief of a government!") Oddly enough, this expression, originally coined by the *Fanfulla*, an influential journal, to ridicule the *opponents* of the government, really epitomizes the attitude of the average Italian toward the central authority. It is the vital word spoken in jest. The Italian—and particularly the Italian of the southern peninsula—is against government—any government, all government—on general principles. He and his forefathers went through a grim school, and they have not forgotten.

The Italian, however republican in form his institutions may be, is still the subject of a monarchy, and he has never fully grasped the Anglo-Saxon idea that even a king is subject to the law. In Italy no one thinks of questioning the legality of an arrest. With us, to do so is the first thought that comes. On the Continent, the fact that an act is done by an *official*, by a man in striped trousers, places it above criticism. No matter how obvious an error may have

been committed, one is inevitably met by the placid assertion: "The government makes no mistakes." Neither has the idea of the sanctity of personal liberty ever been properly developed. There is no *habeas corpus* in Italy. Release on bail is legally possible, but difficult of achievement and little availed of. A man's house is not "his castle." The law itself is usually complicated and slow in remedial and criminal matters, and justice is apt to be blind unless the right sort of eye doctor—a deputy or a senator—is called in. Bureaucracy has perpetuated the Italian's inherited distrust of government and distaste for legal process, and drives him still to seek his ends in many cases by influence, bribery, or—the Camorra.

Rarely can we point to a social phenomenon in this country and say: "This is so because of something a hundred years ago." With us some one has an idea, and presto! we are recalling judges, pulling down idols, "elevating" women to be sheriffs, and playing golf on Sundays. Where are the gods of yesterday? The pulse of the nation leaps at a single click of the Morse code. An injustice in Oklahoma brings a mass meeting together in Carnegie Hall. But the continuance of the Camorra in Italy to-day is directly due to the succession of tyrants who about a century ago allowed the patriots of Naples and Sicily to rot in prison or hung them up on scaffolds in the public squares.

The Bourbon rule in the "Kingdom of the Two Sicilies"\* was one of the most despicable in history.

\* Naples and Sicily were united under that name in 1734.

In eleven days in 1793 one hundred and twenty professors, physicians, and priests were executed by the public hangman in Naples. This was a mere foretaste of what was coming. When Napoleon dethroned the Bourbons in 1805 and made his brother Joseph "King of Naples," there dawned an era of enlightenment and reform which continued when Joseph was succeeded by Joachim Murat in 1808; but the Congress of Vienna in 1815 reinstated the old dynasty and recalled Ferdinand I, who had been lurking in Sardinia, to the throne. Then the horrors began again. A period of retrogression, of wholesale persecutions and executions, followed. Never was there anything like the nightmare of bloody politics which lasted through the reigns of Ferdinand I (1825), of Francis I (1830), of Ferdinand II (1859), and of Francis II, until the entry of Garibaldi into Naples in 1860.

The oppressions of the Bourbons and the struggle of the patriots of Italy for freedom and the Risorgimento stimulated secret organization. No other means to combat tyranny was, in fact, possible. To be known to have liberal ideas meant instant arrest, if not death. Under Ferdinand II there had been over twenty thousand political prisoners actually in prison at one time and thirty thousand more *attendibili*, confined in their houses.\* The governor of Genoa complained to Mazzini's father because the youth "walked by himself at night, absorbed in thought." Said he: "We don't like young people

\* G. M. Trevelyan, "Garibaldi and the Thousand," c. iii, p. 45. De Cesare's F. di P., p. lxix.

thinking without knowing the subject of their thoughts." The great society of the Carbonari had provoked the counter-organization of the Calderoni, and had in turn given way to the "New Italy" of Mazzini. It is said on excellent authority that in 1820 there were seventy thousand persons in the city of Naples alone who belonged to secret societies. In this year we first hear of the Camorra by name, and for the next forty years it spread and flourished until it became so powerful that the government of the "Two Sicilies" had perforce to enter into treaty with it and finally (in 1860) to turn over to it the policing of the city of Naples. Indeed, it may be that some such extra-legal organization was a practical necessity if existence were to be tolerable at all.

Lombroso, in the "Growth of Crime," writes: "When the royal postal officials were in the habit of tampering with correspondence, when the police were bent on arresting the honest patriots and making use of thieves as *agents provocateurs*, the necessity of things enhanced the value of the Camorra, which could always have a letter or a packet safely conveyed, save you from a dagger thrust in prison, redeem you a stolen article for a fair sum, or, when quarrels and disputes arose, could get these settled on much more equitable terms and less costly than any one else or indeed the ordinary process of the law."

This was the heyday of the Camorra as an organization of criminals. Later it developed into something more—a political ring under whose leash the back of southern Italy still quivers.

The Neapolitan Camorra had its origin in Spain. The great Cervantes, in "*Rinconeto y Contadillo*," has drawn a marvellous picture of a brotherhood of thieves and malefactors who divided their evil profits *with the police and clergy*. This was "*La Garduna*"—the mother of the Camorra. As early as 1417 it had rules, customs, and officers identical with those of the Camorra of the nineteenth century, and, like it, flourished in the jails, which were practically under its control. Undoubtedly this organization found its way into Sicily and Naples in the wake of the Spanish occupation of the thirteenth century, and germinated in the loathsome prisons of the period until it was ready to burst forth into open activity under the Bourbons.

The word *camorra* comes from the Spanish *chamarra* (in Italian *gamurra*, hence *tabarra*, *tabarro*), meaning a "cloak" usually affected by thieves and bullies. From this is derived the Spanish word *camorra*, "a quarrel with fists," and the phrase *hacer camorra*, fairly translatable as "to look for trouble." It would be difficult to find any closer definition than this last of the business of the Neapolitan Camorra.

Giuseppi Alongi, a pupil and follower of Lombroso, and one of the principal Italian authorities upon the subject, says concerning the rise of the Neapolitan organization:

"The Camorra certainly had its birth in the prisons of Naples. Old offenders regarded themselves as aristocrats of crime, and behaved as masters in their own households, forming a sort of privileged class

within the prison. The idea of levying taxes on newcomers came as natural to them as that among soldiers of calling upon the recruit to 'pay his footing.' That the Neapolitan Camorra is so mixed up with religion is due to the fact that the local criminal unites ferocity with religious superstition, while the amazing devotion of the population to 'Our Lady of Mount Carmel,' who is venerated as the symbol of maternal love, offers an easy means of exploiting their credulity. It became the custom, therefore, to exact tolls from the people, under the pretence that they were intended for religious purposes. The Camorrista have four hundred feasts every year, and the Church of Mount Carmel in Naples is still their religious centre."

In the days from 1820 to 1860, to be a Camorrist was a matter of pride and a rare distinction among the baser sort. So far from concealing his membership in it, the Camorrista vaunted it abroad, even affecting a peculiar costume which rendered him unmistakable. A red necktie, the loose ends of which floated over either shoulder, a parti-colored sash, and a cane heavily loaded with brass rings, marked him as a "bad man" during this romantic period. But, however picturesque it may have been, the Camorra soon became the most dreaded and loathsome secret society in the world.

Only those could become members who had shown their preference for the *mala vita* and given tangible evidence of their criminality. Candidates who had qualified for the novitiate proved their suitability for

the next grade by performing some brutal act, such as slitting an old man's throat from ear to ear.

The business of the Camorra was organized extortion, assisted by murder and violence. The Camorrist was a bully—one who could use the knife. In this he was instructed until he became a master in artistic stabbing with a fair knowledge of anatomy. Various styles of knives were used for different purposes: the *settesoldi*, for scarring and unimportant duelling among members; the *'o zumpafuosso*, or deadly official knife, for the "jumping duel"; the *triangolo* for murders, etc. The actual slashing was usually done not by the Camorrist himself, but by some aspirant to membership in the society who desired to give proof of his virtue, and who, rather as a favor, was permitted to take all the chances. Accordingly the "honored" youth selected the right knife and lay in wait for his victim, assisted by a *palo*, or "stall," who gave warning of danger and perhaps arranged for the victim to stumble just as the blow was to be struck. Secret signals facilitated matters. Even to-day, the American in Naples who is not "afraid to go home in the dark" had best hasten his steps if he hears near by the bark of a dog, the mew of a cat, the crow of a cock, or a sneeze, any one of which does not carry conviction as to its genuine character. These are all common Camorrist signals of attack; while popular tunes such as "*Oi ne', traseteve, ca chiora!*" ("Go in, for it rains!") are warnings of the approach of danger.

The Camorra levied blackmail upon all gambling

enterprises, brothels, drivers of public vehicles, boatmen, beggars, prostitutes, thieves, waiters, porters, marketmen, fruit-sellers, small tradesmen, lottery winners, and pawnbrokers, controlled all the smuggling and coined bogus money; and the funds thus secured were divided among (1) the police, (2) the members in jail, (3) the aged, (4) widows and orphans of those who had died in the cause of crime, (5) the higher officers, (6) whatever saint or shrine it was desired to propitiate, and (7) the "screenings" went to the men who did the dirty work.

The Camorrist made use of picture signs for names, and a secret symbolism to express their meanings, written or spoken. They also had an argot, or dialect, which has impressed itself upon the language of the entire lower class of Naples. All criminals have a jargon of their own, often picturesque, frequently humorous, and the slang of the Camorrist differed little from that of other associations of crooks here and elsewhere, save in its greater volume. Much of the Camorrist vocabulary has passed into common use, and it is difficult to determine now what words are of strictly Camorristic origin, although the following are supposed to be so:

*Freddare*, "to turn a man cold" (to kill).

*Agnello*, "lamb" (victim).

*Il morto*, "the dead one" (one robbed).

*La Misericordia*, "Compassion" (combination knife and dagger).

*Bocca*, "mouth" (pistol).

*Trio-trac* (revolver).

*Sorci neri*, "black rats" (night patrol).

*Asparago*,\* "asparagus" (a gendarme who has been tricked—"a stiff").

*Si accolla*, "he sticks to it" (he shoulders the others' crime).

In all there are said to be about five thousand words in the Camorrist vocabulary; but a large number of these are simply Neapolitan slang, for inventing which every Neapolitan has a gift.

No more interesting example of this slang has ever come to light than in the secret diary of Tobia Basile (nicknamed "Scarpia Leggia") who, after serving thirty years in prison, returned to the haunts of men to teach the *picciotti* the forms and ceremonies of the society and to instruct them in its secret language. This strange old man, more literate than most Camorrists, kept a diary in the ancient symbolism of the brotherhood. Having become bored by his wife he murdered her, walled her body up in the kitchen, and recorded what he had done, thus:

May 1, "The violets are out."

May 7, "Water to the beans."

June 11, "I have pruned my garden."

Aug. 10, "How beautiful is the sun."

Sept. 12, "So many fine sheep are passing."

Time passed, and a contractor, rebuilding the wall, came upon the corpse. Tobia denied his guilt, but his diary was found, as well as a Camorrist translator. "Water to the beans." That beautiful metaphor was shown to mean naught else but "I have killed and buried her!" And in the face of his own diary

\* Compare the Florentine *carciofo* "artichoke" for gendarme.

Tobia admitted the accuracy of his record. "Water to the beans!"

The first grade of aspirants to the Camorra was that of the *garzone di mala vita*, or "apprentice," who was practically a servant, errand-boy, or valet for his masters or sponsors, and was known as a *giovine onorato*, or honored youth. The second grade was that of the *picciott 'i sggaro*, or novice, originally difficult of attainment and often requiring from six to ten years of service. The third or final stage was that of the *capo paranza*, head of a local gang, or "district leader."

The society was divided into twelve centres, corresponding to the twelve quarters of the city of Naples, each centre being, in turn, subdivided into *paranze* and having a separate or individual purse. The chief of each *paranza* was elected, and was the strongest or boldest man in the gang. In earlier days he combined the office of president, which carried with it only the limited authority to call meetings, with that of cashier, which involved the advantage of being able to divide the *camorra*, or proceeds of crime. The leader was entitled himself to the *sbruffo*, a percentage due by "right of camorra"; and this percentage belongs to-day in every case to the Camorrist who has planned or directed the particular crime involved. The leaders of the twelve divisions met, just as they occasionally do *now*, to discuss affairs of vital importance, but in most matters the individual sections were autonomous.

According to the confession of an old Camorrist,

the lowest grade of the society was attained by the following rite:

A general meeting of the district was called, at which the sponsor formally introduced the candidate to the gathering. The leader stood in the midst of his fellow Camorristi, all of whom were drawn up in a circle according to seniority. If the treasurer was present the president had three votes, and the assembly was known in Camorrist slang as being *cap' in trino*—three in one: if absent, the society was known as *cap' in testa*, which means “the supreme triad.” All stood perfectly motionless, with arms folded across their breasts and with bowed heads. The president, addressing the neophyte, said:

“Knowest thou the conditions and what thou must do to become an honored youth? Thou wilt endure misfortune upon misfortune, thou wilt be obliged to obey all the orders of the novices and the solemnly professed, and bring them useful gains to furnish them with useful service.”

To this the neophyte replies:

“Did I not wish to suffer adversities and hardships, I should not have troubled the society.”

After a favorable vote on the admission of the candidate, he was led forward and permitted to kiss each member once upon the mouth. The president he kissed twice. Certain favors were then asked of the assembly by the neophyte, and the president made reply:

“The favors asked shall be accorded according to our rules. Our terms of membership are these:

"First: That thou go not singing or rowing or brawling in the public streets.

"Secondly: That thou respect the novices and whatsoever instructions they may give thee.

"Thirdly: That thou obey whole-heartedly our professed members and carry out their commissions."

After a few tests of the candidate he was handed over to the "novice master," a full-fledged member under whom he was to serve his term of probation. The period of his apprenticeship depended upon the zeal, ability, and ready obedience which he displayed in the course of it. He was absolutely at the mercy of his master, and if so commanded he must substitute himself for another and take the latter's crimes upon his own shoulders; but one who thus made of himself a "martyr" was promoted to a higher grade in the society.

Promotion to such higher grades involved stricter examination and the Camorrist admonition:

"Shouldst thou see even thine own father stab a companion or one of the brethren, thou art bound to defend thy comrade at the cost of stabbing or wounding thy father; and God help thee shouldst thou traffic with traitors and spies!"

Standing with one foot in the galleys and the other in the grave (symbolically), he swore to kill anybody, even himself, should that be the wish of the society. The kissing ceremony was then renewed, and the candidate was initiated fully into the secrets of the organization. The number of weapons in the possession of the Camorra was revealed to him, the names

of brethren under the ban of suspicion, the names of all novices and postulants, as well as the society password and the code of recognition signs.

These points of ritual passed, the candidate was then ready for the blood ceremony, which consisted in tasting the blood of each member of the assembly, drawn from a small knife-wound made for the purpose, and finally the combat. For this necessary part of the ceremony of initiation, the candidate was required to select an opponent from the assembly. The champions then chose their daggers, picked their seconds, unshirted themselves—and the fight was on. It was a rule that they must aim only at the muscles of the arm, and the president, acting as *capo di tiranta* (master of combat) was there to see that the rule was obeyed. At the first drawing of blood the combat was over, and the victor was brought forward to suck the blood of the wound and embrace his adversary. If the newly promoted member happened to be the loser, he had to resume the fight later on with another champion; and not until he had won in a test was he definitely “passed” and “raised.”

Many other bloody tests have been attributed to this ceremony of the Camorra; but these, as well as the foregoing in its strict form, have been largely done away with, except in the prisons, where the society still retains its formality. There remained, as a final step in the ritual of initiation, the tattooing of two hearts joined together with two keys. “Men of honor ought to have heart enough for two people, that is to say, have a large heart; men bound only

to their colleagues and whose heart is closed as it were with a double key to all others." Sometimes a spider took the place of the hearts, symbolizing the industry of the Camorrist and the silence with which he weaves the web around his victim. This tattooing is still customary among Camorrists.

The usual Camorrist tribunal consisted of a committee of three members belonging to the district organization, presided over by the Camorrist of highest rank among them, and settled ordinary disputes and punishments. From this there was an appeal in more important matters to the central committee of twelve. This latter body elected a supreme head for the entire society, and passed on matters of general policy. It also sat as a court of original and final jurisdiction in cases of treachery to the society, such as betraying its secrets or embezzling its funds, imposed the death penalty, and appointed the executioners. Its decrees were carried out with blind obedience, although not infrequently the death sentence was commuted to that of disfiguration.

Such, then, was the society which in 1820 already controlled the prisons, dealt in assassination and robbery, levied blackmail upon all classes, trafficked in every sort of depravity, and had a rank and file upon which its leaders could absolutely rely. It had no political creed, nor did it interest itself in anything except crime. It had greater solidarity than the police, which was almost equally corrupt. Dreaded by all, it was utilized by all, for it could do that which the police could not do.

The city officials of Naples had a very tender re-

gard for the feelings of "the brethren of the dagger." In 1829 certain reformers proposed building a wall around a notoriously evil street, so that at night, under lock and key, the inhabitants could be properly "segregated." But the Camorra did not take kindly to the suggestion, and a letter was left with the functionary in charge of the matter: \*

NAPLES, September, 1829.

SIR:

Are you not aware that in confining these poor girls in walls you act as if they were condemned to the lowest depths of hell? The prefect of police and the intendant who ordered this brutal act have no heart. . . . We are here who have much heart and are always ready to shed our own blood for them, and to cut the throats of those who shall do anything toward walling up that street. With all humility we kiss your hands.

N. N.

The street was not walled up, the prefect of the police discovering that he had too much heart.

Having no politics, the Camorristi became, as it were, Hessians in politico-criminal activity. They were loyal only to themselves, their favorite song being:

*"Nui non simmo gravanari,  
Nui non simmo realisti,  
Ma nui simmo Camorristi,  
Cuffiano a chilli' e a chisti!"*

(We are not Carabinieri,  
We are not royalists,  
But we are Camorristi—  
The devil take the others!)

\*H. D. Sedgwick, "Letters from Italy."

Under the Bourbons the police recognized and used the Camorra as their secret agents and granted its members immunity in return for information and assistance. Both preyed on the honest citizen, and existed by extortion and blackmail. "The government and the Camorra hunted with one leash." Yet, because the police were regarded as the instruments of despotism, the people came to look upon the Camorristas (who, technically at least, were hostile to authority) as allies against tyranny. It was at this period of Italian history that the present distrust of government and distaste for law had its rise, as well as the popular sympathy for all victims of legal process and hatred for all who wear the uniform of the police. The Camorra still appeals to the dread of tyranny in the heart of the south Italian to which in large measure, by its complicity, it contributed. Thus the love of liberty was made an excuse for traffic with criminals; thus was fostered the *omertà*, the perverted code of honor which makes it obligatory upon a victim to shield his assassin from the law; and thus was born the loathing of all authority which still obtains among the descendants of the victims of Ferdinand's atrocious system, which, whatever their origin, gave the *mala vita*—brigandage, the Mafia, and the Camorra—their virulence and tenacity.

In 1848 the Camorra had become so powerful that Ferdinand II actually negotiated with it for support; but the society demanded too much in return and the plan fell through. On this account the Camorra threatened to bring on a revolution! In this it was

not successful, but it now began openly to affect revolutionary ideas and pretend to be the friend of liberty, its imprisoned members posing as patriots, victims of tyranny.

Thus it gained enormously in prestige and membership, while the throne became less and less secure. Ferdinand II granted a general amnesty in order to heighten his popularity, and the Camorrists who had been in jail now had to be reckoned with in addition to those outside. In 1859 Ferdinand died and Francis II seated himself on the quaking throne. His prefect of police, Liborio Romano, whom history has accused of plotting the Bourbon overthrow with Garibaldi and of playing both ends against the middle, had either perforce or with malice prepense conceived the scheme of harnessing the Camorra by turning over to it the maintenance of order in the city. The police had become demoralized and needed rejuvenating, he said. Francis II thereupon had another jail delivery, and "Don Liborio" organized a "National Guard" and enlisted throngs of Camorrists in it, while in the gendarmerie he recruited the *picciotti* as rank and file and installed the regular Camorrists as brigadiers.

Then came the news that Garibaldi was marching upon Naples. Romano, still ostensibly acting for the best interests of his royal master, urged the latter's departure from the capital. The revolution was coming. In some indefinable way, people who were for the Bourbons yesterday saw to-day the impossibility of the continuance of the dynasty. The

cat was ready to jump, but it had not jumped yet. Whatever may have been Romano's real motives so far as the Bourbons were concerned, the fact remains that his control over the national militia and police, during the days and nights just prior to the departure of the King and the arrival of Garibaldi, resulted in a vigilance on their part which protected property and maintained an order otherwise impossible.\* Garibaldi at last arrived, with Romano's Camorrist police on hand to cheer loudly for "Victor Emmanuel and Italy United!" and to knock on the head or stick a knife into the gizzard of any one who seemed lukewarm in his reception of the conquering hero. The cat jumped—assisted by the Camorra. The liberals were in, and with them the Camorrista, as the saying is, "with both feet." Thus, perhaps for the first time in history, was a society of criminals recognized officially by the government and intrusted with the task of policing themselves.

From 1860 on the Camorra entered upon a new phase, a sort of duplex existence, having on the one hand its old criminal organization (otherwise known as the *Camorra bassa*) and on the other a group of politicians or ring with wide-spread ramifications, closely affiliated with the society and dealing either directly with it or through its more influential and fashionable members, much as a candidate for office in New York might have secured the support of the "Paul Kelly Gang" through the offices of the politician under whose patronage it existed. This "smart

\* G. M. Trevelyan, "Garibaldi and the Thousand," c. 1., p. 19.

set" and the ring connected with it was known as the *Camorra alta* or *Camorra elegante*, and from the advent of Garibaldi to the present time the strictly criminal operations of the society have been secondary in importance to its political significance. Its members became not merely crooks, but "protected" crooks, since they gave office to men who would look after them in return, and the result was the alliance of politics and crime in the political history of Southern Italy during the last fifty years.

It is hardly likely that foxy old "Don Liborio" anticipated any such far-reaching result of his extraordinary manœuvre with the Camorra. It was not many weeks, however, before the Camorrista who had been given public office and continued under Garibaldi, began to show themselves in their true colors, and to use every opportunity for blackmail and private vengeance. They had been given charge of the octroi, or taxes levied at the city gates, and these decreased, under Salvatore di Crescenza, from forty thousand to one thousand ducats per day. Another Camorrist collector, Pasquale Menotte, had the effrontery to turn in, on one occasion, the princely sum of exactly four cents. It became absolutely necessary to get rid of them at any cost, and to drive them out of the police and army, which they now permeated. Mild measures were found insufficient, and as early as 1862 a raid was conducted by the government upon the organization—Sparenta, the Minister of Police, arresting three hundred Camorrista in one day. But he accomplished little. From this

time on until 1900 the history of the Camorra is that of a corrupt political ring having a standing army of crooks and rascals by means of which to carry out its bargains.

During this period many serious attempts were made to exterminate it, but practically to no purpose. In 1863 another fruitless series of raids filled the jails of Naples, and even of Florence and Turin, with its members; but the society continued to flourish—less openly. The resignation of Nicotera as Prime Minister in 1876 was followed by a burst of activity among the Camorristi, but in 1877 the government made a serious effort to put down the Mafia in Sicily, while in 1880 the murder of Bonelli in a foul dive of the Camorra in Naples resulted in the prosecution of five Camorristi for his murder. The trial, like that of 1911–12, took place, for reasons of safety, at Viterbo. The witnesses testified freely upon every subject save the Camorra, and could not be induced to suggest that the assassination had been the result of a conspiracy. "The word Camorra seemed to burn their tongues." The jury were so impressed by the obvious terror which the society inspired in the Neapolitans that they found all the five—Esposito, Romano, Tiniscalchi, Langella, and Trombetta—guilty, and they were sentenced to forced labor in the galleys.

Apparently there was a sort of renaissance of the Camorra about 1880, at the death of Victor Emmanuel II, and under the new administration of Humbert it began to be increasingly active in political

affairs. At this time the *Camorra alta* included lawyers, magistrates, school-teachers, holders of high office, and even cabinet ministers. The writer does not mean that these men went through the rites of initiation or served an apprenticeship with the knife, but the whole villainous power of the Camorra was at their backs, and they utilized it as they saw fit.

The "Ring," affiliated as it is with the leaders of the society, is still the most dangerous manifestation of the Camorra. Historically, it is true, it was known as the *alta Camorra* or *Camorra elegante*, but in ordinary parlance these terms are generally used to describe Camorristis more closely related to the actual district organizations, yet of a superior social order—men who perhaps have graduated from leadership into the more aristocratic if equally shady purloins of crime. These handle the elections and deliver the vote, own a gambling-house or two, or even more disreputable establishments, select likely victims of society's offscourings for blackmail, and act as go-betweens between the Ring and the organization. They also furnish the influence when it is needed to get Camorristis out of trouble, and mix freely in the fast life of Naples and elsewhere. The power of the Ring reached its climax in 1900.

In return for the services of the *Camorra bassa* in electing its deputies to office, the government saw to it that the criminal activities of the society were not interfered with. Prefects who sought to do their duty found themselves removed from office or transferred to other communes, and the blight of the Ca-

morra fell upon Parliament, where it controlled a number of deputies from the provinces of "Capitanata"; all governmental interference with the Camorra was blocked, and Italian politics weltered in corruption.

Upon the assassination of King Humbert, in 1900, the situation in Naples was as bad as that of New York City in the days of the Tweed Ring. The ignorant Neapolitans sympathized with the Camorristas as against the police, and voted as they were directed. Almost all the lower classes were affiliated in some indirect way with the society, much as they are in New York City with Tammany to-day. The Ring absolutely controlled all but three of the newspapers published in the city. The lowest depths had been reached in every department of municipal and provincial administration, and even the hospitals and orphan asylums had been plundered to such an extent that there was nothing left for the thieves to get away with.

At this crisis the Socialist newspaper, *La Propaganda*, courageously sprang to the attack of the communal administration, in the persons of the Syndic Summonte and the Deputy Casale, who, smarting under the lash of its excoriation, brought an action of libel against its editor. Heretofore similar attacks had come to nothing, but the facts were so notorious that Summonte evaded service and abandoned his associate, and Casale, facing the necessity of explaining how he could support a luxurious establishment on no salary, endeavored to withdraw the action.

The Public Minister himself announced that no witnesses need be summoned for the defense, and publicly expressed his indignation that a governmental officer, Commendatore F. S. Garguilo, Sustrituto Procuratore Generale of the Court of Cassation in Naples, should have accepted a retainer for Casale. The tribunal handed down a decision finding that the facts asseverated by *La Propaganda* were fully proved and, referring to the influence of Casale, said: "The immorality thence emanating is such as to nauseate every honest conscience, and to affirm this in a verdict is the commencement of regeneration."

This was, indeed, the commencement of a temporary regeneration. Casale was forced to resign his seat in Parliament and in the provincial council. The entire municipal council resigned, and, amid the roarings of the Neapolitan Camorrist press, the president of the Council of Ministers, Senator Saracco, proposed and secured a royal commission of inquiry of plenipotentiary powers, with a royal commissioner to administer the commune of Naples. The report of this commission, in two volumes of nine hundred pages each, draws a shocking picture of municipal depravity, in which Casale appeared as recommending criminals to public office, selling places for cash, and holding up payments to the city's creditors until he had been "seen." He was proved to have received thirty thousand lire for securing a subsidy for a steamship company, and sixty thousand lire for getting a franchise for a street railway. It appeared that the corruption in the educational departments passed

description, that concessions were hawked about to the highest bidder, and that in one deal—the “Scandalous Loan Contract,” so called—five hundred thousand lire had been divided between Scarfoglio, Summonte, Casale, and Delieto. This Scarfoglio, the editor of *Il Matino*, and the cleverest journalist in Naples, was exposed as the Ring’s intermediary, and his wife, the celebrated novelist, Matilde Serao, was demonstrated to have been a trafficker in posts and places. The trial and exposures created a furore all over Italy. The Prime Minister refused to continue the Royal Commission and announced a general election, and, amid the greatest excitement, the Camorra rallied all its forces for its final struggle in politics. But the citizens of Naples had had enough of the Ring for the time being, and buried all the society’s candidates under an avalanche of votes. This was the severest blow ever dealt to the political influence of the Camorra.

The Casale trial marks the last stage of the Camorra’s history to date. America has had too many “rings” of her own to care to delve deeply into the slime of Italian politics. The Camorra regularly delivers the votes of the organization to governmental candidates, and exerts a powerful influence in the Chamber of Deputies. It still flourishes in Naples, and continues in a somewhat modified form its old formalities and festivities; but its life is hidden and it works in secret. The solidarity of the organization has yielded to a growing independence on the part of local leaders, whose authority is often usurped by

some successful *basista* (burglary planner). The big *coups* become fewer as the years go on, the "stakes" for which the criminal game is played smaller and smaller.

Police Inspector Simonetti, who had many years' experience in Naples, gave evidence before the Viterbo Assize on June 8, 1911, as follows:

"The Camorra truly exists at Naples, and signifies violence and absolutism. Formerly it had severe laws and iron regulations, and all the gains derived from criminal undertakings were divided among all the leaders. There was blind, absolute obedience to the chiefs. In a word, the Camorra was a state within a state.

"To-day this collectivism, this blind obedience, exists no longer. All the Camorrist respect one another but they act every man for himself.

"The Camorra exerts its energies in divers ways. The first rung in the Camorrist ladder is the exploitation of one or more women; the second, the horse-fair sales and public auctions of pawned goods. The Camorrist goes to these latter with the special object of frightening away all would-be non-Camorrist buyers. Usury constitutes another special source of lucre, and at Naples is exercised on a very large scale. The Camorrist begins by lending a sum of five francs, at one franc per week interest, in such fashion that the gain grows a hundredfold, so that the Camorrist who began with five-franc loans is able to lend enormous sums to noblemen in need of funds. For instance, the Camorrist loans ten thousand lire, but exacts a

receipt for twenty thousand lire, and gives goods in place of money, these goods being subsequently bought back at low prices by the selfsame usurers. Another great industry of the Neapolitan Camorra is the receipt of stolen goods; practically all the receivers of such in Naples are members of the Camorra."

Governor Abbate, who for thirty years past has been chief warder of the prisons at Pozzuoli near Naples (the ancient Puteoli at which St. Paul sojourned for seven days on his way to Rome), gave evidence before the Viterbo Assize on June 13, 1911:

"In the course of my thirty years' experience I have had the worst scum of the Neapolitan Camorra pass through my hands. I have never met a gentleman nor an individual capable of speaking the truth among them. I have never been without a contingent of Camorristis in my prison. I always follow the system adopted in most other Italian prisons of putting all the Camorrist prisoners together in a pack by themselves. When new inmates come, they spontaneously declare if they be Camorristis, just as one might state his nationality or his religion. I group them accordingly with the rest of their fellows. They know they will be so treated; and unless we follow this system a perfect inferno of terrorism ensues. The Camorristis seize the victuals, the clothes and underwear of the non-Camorrist inmates, whom, in fact, they despoil in every way imaginable.

"I come to learn the grades of my Camorrist prisoners inasmuch as Camorristis, probationers, freshmen,

and the rank and file, show studious obedience to their seniors and chiefs, whom they salute with the title of 'master.'"

The Camorrist, in addition to exploiting women, still levies toll on boatmen, waiters, cab-drivers, fruit-sellers, and porters, and, under guise of protecting the householder from the Camorrists, extorts each week small sums from the ordinary citizen. The meanest work of these "mean thieves" is the robbing of emigrants about to embark, from whom they steal clothing and money and even the pitiful little packages of food they have provided for the voyage.

A grade higher (or lower) are the gangs of burglars or thieves whose work is directed and planned, and the tools and means for which are furnished by a *padrone* or *basista*. These will also do a job of stabbing and face-slashing at cut rates or for nothing to oblige a real friend of the "Beautifully Reformed Society."

More elevated in the social scale is the type of Professor Rapi or Signor de Marinis, the *Camorrista elegante*, who on the fringe of society watches his chance to blackmail a society woman, "arrange" various private sexual matters for some nobleman, or cheat a drunken aristocrat at the gaming-tables.

Last, there is the traffic in the elections, which has been so advantageous to the government in the not distant past that its ostentatious attempts to drive out the Camorra, made in response to public demand, have usually been half-hearted, if not blatantly insincere.

Yet the traditions of the Camorra still obtain, and in many of the prisons its influence is supreme. Witness the deadly duel between twelve Camorristi and twelve Mafiusi in 1905 in the Pozzuoli penitentiary, in which five men were killed and the remainder had to be torn apart at the muzzles of the infantry. Witness also, and more strikingly, the trial and execution of Lubrano, who, confined in jail with other Camorristi, betrayed their secrets. In formal session behind prison walls, the "brothers" sentenced him to death, and he was stabbed by a *picciotto*, who was thereupon "raised" to the highest grade of the society.

The Camorristi still turn out in force for their religious holidays, and visit Monte Vergine and other shrines in gala costume, accompanied by their women. Drunken rioting, debauchery, and knifings mark the devotions of this most religious sect. But they are a shoddy lot compared to the "bravos" of the last century. At best, they are a lot of cheap crooks—"pikers" compared to a first-class cracksman—pimps, sharpers, petty thieves, and dealers in depravity, living off the proceeds of women and by the blackmail of the ignorant and credulous.

It would be ridiculous to deny that the Camorra exists in Naples, but it would be equally absurd to claim that it has the picturesqueness or virility of ancient times. Yet it is dreaded by all—by the Contessa in her boudoir, by the manager of the great trans-oceanic line, by the *ragazzo* on the street. The inquiry of the traveller reveals little concerning it.

One will be confidently told that no such society or sect any longer exists, and with equal certainty that it is an active organization of criminals in close alliance with the government. Then, suddenly, some trifling incident occurs and your eyes are opened to the truth, at first hardly realized, that the crust of modern civilization is, in the case of southern Italy, superimposed upon conditions of life no more enlightened than they were a thousand years ago, and that hatred and distrust of government, ignorance, bigotry, and poverty make it a field fertile for any sort of superstition or belief, be it in the potency of the pulverized bones of young children for rheumatism, the efficacy of a stuffed dove sliding down a wire as a giver of fat harvest, or the deadly power of the Camorra. And where several million people believe in and fear the Camorra, if for no other reason, the Camorra or something akin to it is bound to exist.

Before long you will begin to find out things for yourself. You may have your watch filched from your waistcoat pocket, and you may perhaps get it back through the agency of a shabby gentleman—introduced by the hotel porter—who, in spite of his rough exterior and threadbare clothing, proves marvellously skilful in tracing the stolen property—for a consideration.

You may observe that sometimes, when you take a cab, a mysterious stranger will spring up beside the driver and accompany you to your destination. This is the "collector" for the Camorra—the parasite that feeds on every petty trade and occupation in the city.

For the boatman shares his hire with a man who loiters on the dock; the porter gives up a soldo or two on every job; and the beggar divides with the Camorra the profit from *la misericordia*.<sup>\*</sup> Last of all, you may stumble into one of the quarters of Naples where the keeping of order is practically intrusted to the Camorra; where the police do not go, save in squads; and where each householder or dive-keeper pays a weekly tax to the society for its supposed "protection," part of which goes higher up—to some "*delegato*" or "commissary" of the "P. S."†

Or you may enter into the Church of Santa Maria del Carmine and find a throng of evil-faced men and women worshipping at the shrines and calling for the benediction of the Holy Trinity upon their criminal enterprises. It is said that sometimes they hang votive offerings of knives and daggers upon the altars, and religiously give Heaven its share out of the proceeds of their crimes, much as some of our own kings of finance and merchant princes, after a lifetime of fraud and violation of law, will seek to salve their consciences and buy an entrance to Paradise by founding a surgical hospital or endowing a chair of moral philosophy. But until, by chance, you meet a Camorrist funeral, you will have no conception of the real horror of the Camorra, with its procession of human parasites with their blinking eyes, their shuffling gait, their artificial sores and deformities, all crawling from their holes to shamble in the trail

<sup>\*</sup> Compassion.

† *Pubblica Sicurezza*, or Public Safety—the regular police.

of the hearse that carries a famous *basista*, a *capo paranze*, or a *capo in testa* to his grave.

It is undoubtedly a fact that ease of living, which generates indolence, induces moral laxity, and a society composed in part of a hundred thousand homeless people, so poor that a few soldi represent a feast or a festival, who sleep in alleys, on the wharves, in the shrubbery of parks, or wherever night finds them, is a fertile recruiting ground for criminals. The poverty of the scum of Naples passes conception. Air and sky, climate and temperature, combine to induce a vagabondage which inevitably is hostile to authority. The strong bully the weak; the man tyrannizes the woman; the *padrone* easily finds a ragged crew eager to do his bidding for a plate of macaroni and a flask of unspeakable wine; a well-dressed scoundrel becomes a demi-god by simple virtue of his clothes and paste-diamond scarf-pin; the thief that successfully evades the law is a hero; and the crook who stands in with the police is a politician and a diplomat. The existence of the Camorra in its broad sense turns, not on the vigor of the government or the honesty of the local functionaries, so much as on the conditions of the society in which it is to be found.

Such is a glimpse of the Camorra, past and present, which, with its secret relations to the police, its terrors for the superstitious and timid, its attraction for the weak and evil-minded, its value to the politicians, its appeal to the natural hatred of the southern Italian for law and government, will continue so long as social conditions in Naples remain

the same—until reform displaces indifference and incapacity, and education\* and religion effectively unite to lift the Neapolitans out of the stew of their own grease. This is the sociological key to the Camorra, for *camorra* means nothing but moral delinquency, and moral delinquency is always the companion of ignorance, superstition, and poverty. These last are the three bad angels of southern Italy.

For the reasons previously stated it is not surprising that the disclosures of 1900 had little or no permanent effect upon the criminal activities of the Camorra. The Ring and the politicians had, it is true, received a severe shock, but the minor criminals had not been affected and their hold on the population remained as strong as ever. Soon the Camorrist became as active at the elections, and the authorities as complacent, as before, and after a spasmodic pretence at virtue the "Public Safety" relapsed into its old relations to the organization.†

The leaders of the new "Beautifully Reformed Society" were reported to be Giovanni Rapi, a suave and well-educated gambler, the Cashier of the organization and its chief adviser, surnamed "The Professor" for having once taught modern languages in the public schools, at one and the same time a member of both the high and the low Camorra, and an international blackleg; Enrico Alfano, popularly known as "Ericone," the reorganizer of the society

\* The Italian Parliament approved in June last a bill proposed by the government authorizing the establishment of 6,000 schools, mainly in the southern provinces, at a cost of 250,000,000 lire (\$50,000,000.)

† See appendix.

and its "Supreme Head," the boss of all the gangs, a fearless manipulator of elections, a Camorrist of the new order—of the revolver instead of the knife, the confidant of his godfather, Don Ciro Vitozzi,—the third of the criminal triumvirate, the most mediæval of all these mediæval figures, and the Machiavelli of Naples.

Known as the "Guardian Angel" or "Confessor" of the Camorra, this priest was chaplain of the Naples Cemetery, and as such was accused of unsavory dealings of a ghoulish nature,\* but he exerted wide power and influence, had the ear of the nobility and the entrée to their palaces, and even claims to have been the confessor of the late King. Once, a cabby, not recognizing Vitozzi, overcharged him. The ecclesiastic protested, but the man was insistent. At length the priest paid the fare, saying, "Remember that you have cheated Don Ciro Vitozzi." That night the cabman was set upon and beaten almost beyond recognition. Next day he came crawling to the priest and craved permission to drive him for nothing. Many such stories are told of Vitozzi.

Besides these leaders, there were a score of lesser lights—de Marinis, the "swell" of the Camorra, a mixer in the "smart set," fond of horses and of diamonds, a go-between for the politicians; Luigi Arena, the scientific head of the corps of burglars; Luigi Fucci, the "dummy" head of the Camorra; and Genaro Cuocolo, a shrewd "basista" and planner of burglarious campaigns, a little boss, grown arrogant

\* In stolen burial shrouds and the bones of children.

from felonious success. The cast, indeed, is too long for recapitulation.

These met and planned the tricks that were to be turned, assigned each "*picciotto*" to his duty, received and apportioned the proceeds, giving a due share to the police, and perhaps betraying a comrade or two for good measure—a crowd of dirty rascals, at whose activities the authorities connived more or less openly until the dual murder—that forced the Italian government to recognize the gravity of the conditions existing in the criminal world of Naples.

Then, in the twilight of the early morning of June 6, 1906, two cartmen found the body of Cuocolo, the "*basista*," covered with stab-wounds by a roadside on the slope of Vesuvius. At almost the same moment in the Via Nardones, in Naples, in a house directly opposite the Commissariat of Public Safety, the police discovered his wife, Maria Cutinelli Cuocolo, stabbed to death in her bed. Both were well-known Camorrists, and the crime bore every indication of being a "*vendetta*." The first inquiries and formalities were conducted quite correctly. The police arrived on the spot and reported. The magistrate came more deliberately, but in due course. The two places where the crimes had occurred were duly examined, the two autopsies made, and a few witnesses heard. So far, everything had gone on just as it might have in New York or Boston.

But then the Camorra got busy and things began to go differently. Meantime, however, the police had received an anonymous letter, in which the writer

alleged that upon the night of the murder (July 5) a certain dinner party had taken place at an inn known as "Mimi a Mare" at Cupra Calastro in the commune of Torre del Greco, within a hundred yards of the scene of the homicide, at which the guests present were Enrico Alfano, Ciro Alfano, his brother, Gennaro Ibello, Giovanni Rapi, and another. While they were drinking wine and singing, a man suddenly entered—Mariano de Gennaro—and made a sign to Alfano, who pledged the visitor in a glass of "Marsala" and cried, "All is well. We will meet tomorrow." This the police easily verified, and the diners were thereupon all arrested and charged with being accomplices in the murder, simply because it appeared that they had been near by. There was no other evidence. Perhaps the wise police thought that if arrested these criminals would confess. At any rate, the merry-makers were all locked up and Magistrate Romano of Naples began an investigation. At this juncture of the drama entered Don Ciro Vitozzi, girded in his priestly robes, a "Holy Man," in the odor of sanctity.

He hastened, not to the magistrate having the case in charge, but to another, and induced him to begin an independent investigation. He swore by his priestly office that his godson, Ciro Alfano, was innocent as well as the others. He whispered the names of the real murders—two ex-convicts, Tommaso De Angelis and Gaetano Amodeo—and told where the evidence of their guilt could be obtained. He produced a witness, Giacomo Ascrittore, who had

overheard them confessing their guilt and the motive for the murder—revenge because Cuocolo had cheated them out of the proceeds of still another homicide. A police spy, Antonio Parlati, and Delagato Ippolito, a Commissary of police, gave their active assistance to the crafty priest. The prisoners were released, while in their stead De Angelis and Amodeo were thrown into jail.

Then the storm broke. The decent men of Naples, the Socialists, the honest public of Italy, with one voice, demanded that an end should be put to these things—and the Camorra. The cry, taken up by the unbought press, swept from the Gulf of Genoa to the Adriatic and to the Straits of Messina. The ears of the bureaucracy burned. Even Giolitti, the prime minister, listened. The government put its ear to the ground and heard the rumble of a political earthquake. They are shrewd, these Italian politicians. Instantly a bulletin was issued that the government had determined to exterminate the Camorra once and for all time. The honest and eager King found support ready to his hand and sent for the General commanding the Carabinieri and intrusted the matter to him personally. The General at once ordered Captain Carlo Fabbroni to go to Naples and see what could be done. Fabbroni went, summoning first Erminio Capezzuti and Giuseppe Farris, non-commissioned officers of the rank of Maresciallo,\* sleuths of no mean order. In two months Capezzuti had ensnared Gennaro Abatemaggio, a petty thief and

\* About equivalent to our "quartermaster-sergeant."

blackmailer and an insignificant member of the Camorra, and induced him to turn informer against the society, and the house of Ascrittore was searched and a draft of what it was planned that he should testify to upon the charges against De Angelis and Amodeo was discovered *written in the hand of Ippolito, the Delegate of Police!* Thereupon the spy, Parlati, and Ascrittore were both arrested and thrown into prison on the charge of calumny. Vittozzi, the priest, was arrested for blackmail, and his residence was rummaged with the result that quantities of obscene photographs and pictures were discovered among the holy man's effects! Abbatemaggio made a full confession and testified that the five diners at "Mimi a Mare"—the first arrested—had planned the murders and were awaiting at the inn to hear the good news of their accomplishment.

According to his testimony, Cuocolo and his wife had been doomed to death by the central Council of the Camorra for treachery to the society and its decrees. Cuocolo, ostensibly a dealer in antiquities, was known to have for many years planned and organized the more important burglaries executed by his inferiors. Owing to his acquaintance with many wealthy persons and aristocrats he was able to furnish plans of their homes and the information necessary successfully to carry out his criminal schemes. In course of time he married Marie Cutinelli, a woman of doubtful reputation, known as "La Bella Sorrentina." She, for her part, purchased immunity for Cuocolo by her relations with certain police officials,

and her house became the scene of Camorrist debauchery. Thus, gradually, Cuocolo in turn affiliated himself with the police as a spy, and, to secure himself, occasionally betrayed an inferior member of the society. He also grew arrogant, defied the mandates of the heads of the society and cheated his fellows out of their share of the booty. For these and various other offences he was doomed to death by the Camorrist tribunal of high justice, at a meeting held upon May 26, 1906, and presided over by Enrico Alfano. He and his wife—who otherwise would have betrayed the assassins to the police—were thereupon stabbed to death, as related above, on the night of June 5, 1906, by divers members of the Camorra. The adventures of Capezzuti, who, to accomplish his ends, became a companion of the canaille of Naples, form a thrilling narrative. For our present purposes it is enough to say that in due course he formed the acquaintance of Abatemaggio, visited him in prison, and secured from him a list of the Camorrists and full information relative to the inner officers and workings of the organization.

Meanwhile Enrico Alfano having been released from custody had for a while lived in Naples in his usual haunts, but, on learning that the Carabinieri had been ordered to take a hand in investigating the situation, he had gone first into hiding at Afragola, a village near Naples, and had afterward fled to New York, where he had been arrested later in the year by Detective Petrosino and sent back to Havre, while Italian police officers were on their way to

America to take him back to Naples. Luckily, the French government was notified in time, so that he was turned over to the Italian government instead of being set at liberty, and was delivered to the Carabinieri in June, 1907, at Bardonnacchia, on the frontier, together with fourteen other criminals who were being expelled from French territory. Then Capezzuti, armed with the confession of Abbattemaggio, made a clean sweep of all the Camorristas against whom any evidence could be obtained and conducted wholesale raids upon their homes and hiding places, with the result that Rapi and the others were all arrested over again.

During the next four years the Carabinieri found themselves blocked at every turn owing to the machinations of the Camorra. Abbattemaggio made several independent confessions, and many false and fruitless leads had to be run down. The police ("Public Safety") were secretly hostile to the Carabinieri and hindered instead of helped them. Indeed, they assisted actively in the defence of the Camorra. Important documents were purloined. Evidence disappeared. Divers magistrates carried on separate investigations, kept the evidence to themselves, and connived at the misconduct of the police. The Delagato Ippolito and his officers were tried upon the denunciation of Captain Fabbroni, and *were all acquitted*, for the Carabinieri were not called as witnesses, and the public prosecutor who had asked for a three-year jail sentence did not even appeal the case! Each side charged the other with incompetence and corruption and—nothing happened.

The defendants, numbering thirty-six in all, were finally brought to trial at the Assize Court at Viterbo, forty miles from Rome, in the spring of 1911, and at the present time\* the proceedings are still going on. The case is, in fact, one of the most sensational on record and the newspapers of the civilized world have vied with one another in keeping it in the public eye during the year or more that has elapsed since the jury were empannelled, but there is no direct evidence as to the perpetrators of the homicides, and, unfortunately, unless the jury find that some of the Camorristi in the cage actually planned and executed the murder of the Cuocolos, the consequences to the defendants will not be serious, as mere "association for delinquency" with which most of them are charged is punishable with a shorter term of imprisonment than that which will have been suffered by the accused before the conclusion of their trial. Under Article 40 of the Italian Penal Code, the defendants get credit for this period, so that in most instances a verdict of guilty at Viterbo would be followed by the immediate discharge of the prisoners.† This is the case with Rapi—although the evidence has brought out a new offence for which he may still be prosecuted. And, as blackmail, for which that astounding rascal, Don Ciro Vittozzi, is being tried, is punishable with but three to five years imprisonment, "that Holy Man," as he is termed by Alfano, will probably never be compelled to retire to a governmental cloister.

\*May, 1912.

†Ten or more have been liberated already on this ground.

But whatever the result of the trial, it is quite unlikely that the prosecution will have any lasting effect upon the Camorra, for while this cage full of petty criminals has engaged and is engaging the entire resources of the Italian government a thousand or so others have come into being, and an equal number have grown to manhood and as *picciotti* have filled the places temporarily left vacant by their incarcerated superiors. Nay, it is even probable that the public exploitation of the activities of the society will give it a new standing and an increased fascination for the unemployed youth of Naples.

## CHAPTER VIII

### AN AMERICAN LAWYER AT VITERBO

It is not unnatural that a young, enthusiastic, and self-confident people should regard with condescension, if not contempt, the institutions of foreign, if older, societies. Americans very generally suffer from the illusion that liberty was not discovered prior to 1776, and that their country enjoys a monopoly of it. Even experienced and conservative editorial writers sometimes unconsciously fall victims to the provincial trait of decrying methods, procedures, and systems simply because they are not our own. Without, the writer believes, a single exception, the newspapers of the United States have indulged in torrents of bitter criticism at the manner in which the trial of the Camorra prisoners at Viterbo is being conducted, and have commonly compared the court itself to a "bear garden," a "circus," or a "cage of monkeys." Wherever the matter has been the subject of discussion or comment, the tone has been always the same, with the implied, if unexpressed, suggestion that if the prosecution were being conducted here the world would see how quickly and effectively we would dispose of the case—and this with the memory of the Thaw and Patterson trials fresh in our minds. The following editorial from the *New York Times*, printed in March of this year, is by no means extreme as com-

pared with the views expressed in other newspapers, and seems to indicate the popular impression of the manner in which this trial is being carried on:

Our own methods of criminal procedure have long been the object of severe and just criticism, and in our exaggerated and insincere fear of convicting the innocent we have made the conviction of the guilty always difficult and often impossible. Quite unknown in our criminal courts, however, and fortunately, are such strange scenes as are presented daily at the trial of the Camorristi now going on in Italy.

There the law is so little confident of its own powers that the accused are herded together in one steel cage, apparently with the idea of preventing attempts at rescue by a public largely sympathetic with organized robbery and assassination, while the witness for the prosecution is secluded in another cage, lest he be torn to pieces by the prisoners or their friends. The pleadings on each side seem to consist largely of denunciations and threats aimed at the other, tears of rage alternate with shrieks of the same origin, and order is only occasionally restored, when the din rises too high, by the curiously gentle expedient of suspending the session of the court.

How justice is to be the outcome of proceedings such as these, and thus conducted, may be comprehensible to what is called—with little reason—the Latin mind, but others are lost in amazement. It is all highly interesting, no doubt, but one is no more likely to regret that we do not carry on our trials in this way than he is to be sorry that our criminals are not such important and powerful persons as the members of the Camorra seem to be.

Only one fact stands out clearly at Viterbo—the fact that the attack on the banded brigands has been so long delayed that the authority of the law can not now be vindicated without producing a sort of civil war. Which ought to be humiliating for somebody.

Only one conclusion could have been reached by the half million readers of this particular editorial,

and that—the immense superiority of our own legal procedure and method of handling criminal business over those of Italy.

Yet (to examine the statements in this editorial *seriatim*) it is not true that scenes similar to those enacted at Viterbo are unknown in our criminal courts; that the lack of confidence of the authorities in their own power is the cause of the prisoners being confined in court in a steel cage; that the public is “largely sympathetic with organized robbery and assassination”; and that tears and shrieks of rage alternate to create a pandemonium which can be stilled only by adjourning court; and, while there is enough justification in fact to give color to such an editorial, the only extenuation for its exaggeration and the false impression it creates lies in the charitable view that the writer had an equally blind confidence in the sincerity of his resident Italian correspondent and in the latter’s cabled accounts of what was going on.

Unfortunately, the reporters at Viterbo have sent in only the most sensational accounts of the proceedings, since, unless their “stuff” is good copy, the expense of collecting and cabling European news deprives it of a market. The press men at Viterbo have given the American editors just what they wanted. Such opportunities occur only once or twice in a lifetime, and they have fully availed themselves of it.

Then, to the false and exaggerated cable of the correspondent the “write-up man” lends his imagination; significant and important facts are omitted

altogether, and the public is led to believe that an Italian criminal trial consists of a yelling bandit in a straitjacket, with a hysterical judge and frenzied lawyer abusing each other's character and ancestry.

Let the writer state, at the outset, that he has never in his legal experience seen a judge presiding with greater courtesy, patience, fairness, or ability, or keeping, as a general rule, under all the circumstances, so perfect a control over his court, as the president of the assize in which the prosecution of the Camorra is being conducted; nor is he familiar with any legal procedure better fitted to ascertain the truth of the charges being tried.

In studying the Camorra trial at Viterbo, or any other Italian or French criminal proceeding, the reader must bear in mind that there is a fundamental distinction between them and our own, and that there are two great and theoretically entirely different systems of criminal procedure, one of which is the offspring of the Imperial Roman law and the other entirely Anglo-Saxon. One is the Roman or inquisitorial system, and the other the English or controversial. Under the former the officers of the state are charged with the duty of ferreting out and punishing crime wherever found, and the means placed at their disposal are those likely to be most effective for the purpose. The theory of the latter is that, to some extent at least, a criminal trial is the result of a dispute between two persons, one the accuser and the other the accused, and that the proceeding savors of a private law-suit. Now, it is obvious that, in

principle at least, the two systems differ materially. In the one, the only thing originally considered was the best way to find out whether a criminal were guilty and to lock him up, irrespective of whether or not any private individual had brought an accusation against him. In the other, somebody had to make a complaint and "get his law" by going after it himself to a very considerable extent.

The history of the development of these diverse theories of criminal procedure is too involved to be discussed here at any length, but inasmuch as the most natural way of ascertaining whether or not a person has been guilty of a crime is to question him about it, the leading feature of the Continental system is the "question," or inquisitorial nature of the proceedings, whereby the police authorities, who are burdened with the discovery and prosecution of crime, initiate the whole matter and bring the defendant and their witnesses before an examining magistrate in the first instance. The *procureur* (district attorney) in France and the *procuratore del re* in Italy represent the government and are part of the magistracy. They are actually quasi-judicial in their character, and their powers are infinitely greater than those of our own prosecutors, who occupy a rather anomalous position, akin in some ways to that of a *procureur*, and at the same time, under our controversial practice, acting as partisan attorneys for the people or the complainant.

The fundamental proposition under the inquisitorial system is that the proceeding is the govern-

*ment's business*, to be conducted by its officers by means of such investigations and interrogations as will most likely get at the truth. Obviously, the quickest and surest means of determining the guilt of a defendant is to put him through an exhaustive examination as soon as possible after the crime, under such surroundings that, while his rights will be safeguarded, the information at his disposal will be elicited for the benefit of the public. The fact that in the past the Spanish Inquisition made use of the rack and wheel, or that to-day the "third degree" is freely availed of by the American police, argues nothing against the desirability of a public oral examination of a defendant in a criminal case. If he be given, under our law, the *right* to testify, why should he be *privileged* to remain silent?

The Anglo-Saxon procedure, growing up at a time when death was the punishment for almost every sort of offence, and when torture was freely used to extort confessions of guilt, developed an extraordinary tenderness for accused persons, which has to-day been so refined and extended by legislation in America that there is a strong feeling among lawyers (including President Taft) that there is much in our practice which has outlived its usefulness, and that some elements of Latin procedure, including the compulsory interrogation of defendants in criminal cases, have a good deal to recommend them.

A French or Italian criminal trial, therefore, must be approached with the full understanding that it is a governmental investigation, free from many of

the rules of evidence which Bentham said made the English procedure "admirably adapted to the exclusion of the truth." The judge is charged with the duty of *conducting* the case. He does all the questioning. There is no such thing as cross-examination at all in our sense, that is to say, a partisan examination to show that the witness is a liar. The judge is there for the purpose of determining that question so far as he can, and the jury are not compelled to listen to days of monotonous interrogation during which the witness is obliged to repeat the same evidence over and over again, and testify as to the most minute details, under the dawdling of lawyers paid by the day, who not only "take time, but trespass upon eternity."

Such a trial is conducted very much as if the judge were a private individual who had discovered that one of his employees had been guilty of a theft and was trying to ascertain the identity of the guilty party. Practically anything tending to shed light upon the matter is acceptable as evidence, and the suspected person is regarded as the most important witness that can be procured. Finally, and in natural course, comes the confronting of accuser and accused.

Then fellow-servant on the one hand, or formal accuser upon the other, steps forward, and they go at it "hammer and tongs," revealing to their master, the public, or the jury, the very bottom of their souls; for no man, least of all an Italian, can engage an antagonist in debate over the question of his own guilt without disclosing exactly what manner of man he is.

With these preliminary considerations upon the fundamental distinction between the Latin and the Anglo-Saxon criminal procedure, and without discussing which theory, on general principles, is best calculated to arrive at a definite and effective conclusion as to the guilt of an accused, let us enter the ancient Church of San Francesco at Viterbo, and listen for a moment to the trial of the thirty-six members of the Neapolitan Camorra.

It is a cool spring morning, and the small crowd which daily gathers to watch the arrival of the prisoners in their black-covered wagons has dispersed; the guard of infantry has marched back to the Rocca, once the castle of the popes and now a barracks; and only a couple of carabinieri stand before the door, their white-gloved hands clasped before their belts. Inside, in the extreme rear of the church, you find yourself in a small inclosure seating a couple of hundred people, and a foot or so lower than the level of the rest of the building. This is full of visitors from Rome, wives of lawyers, townspeople, and a scattering of English and American motorists. A rail separates this—the only provision for spectators—from the real court. (At the Thaw and Patterson trials the guests of the participants and officials swarmed all over the court-room, around and beside the jury-box, inside the rail at which the prisoners were seated, and occasionally even shared the dais with the judge.)

We will assume that the proceedings have not yet begun, and that the advocates in their black gowns are chatting among themselves or conferring with

their clients through the bars of the cage, which is built into the right-hand side of the church and completely fills it. This cage, by the way, is an absolute necessity where large numbers of prisoners are tried together. The custom of isolating the defendant in some such fashion is not peculiar to Italy, but is in use in our own country as well; and if one attends a criminal trial in the city of Boston he will see the accused elevated in a kind of temporary cell in the middle of the court-room, and looking as if he were suspended in a sort of human bird-cage. Where, as in most jurisdictions of the United States, every defendant can demand a separate trial as of right (which he almost inevitably does demand), no inconvenience is to be anticipated from allowing him his temporary freedom while in the court-room in the custody of an officer. But there are many cases, where three or more defendants are tried together, when, even in New York City, there is considerable danger that the prisoners may seek the opportunity to carry out a vendetta against the witnesses or to revenge themselves upon judge or prosecutor. There is much to be said in favor of isolating defendants in some such way, particularly where they are on trial for atrocious crimes or are likely to prove insane. The Camorristi at Viterbo have already been incarcerated for over four years—one of them died in prison—and were they accessible in the court-room to their relatives or criminal associates and could thus procure fire-arms or knives, there is no prophesying what the result might be to themselves or others. Certain

it is that the chief witness, the informer Abbate-maggio, would have met a speedy death before any of his testimony had been given.

On the opposite or left side of the church, in an elevated box, sit the jury, who keep their hats on throughout the proceedings. They are respectable-looking citizens, rather more prepossessing than one of our own petit juries and slightly less so than twelve men drawn from one of the New York City special panels. At the end or apex of the church is a curved bench or dais with five seats. In the middle, under the dome, are four rows of desks, with chairs, at which sit the advocates, one or more for each prisoner. The only gallery, which is above and behind the jury-box, is given over to the press. At all the doors and the ends of the aisles, at each side of the judges' dais, and in front of the prisoners' cage stand carabinieri, in their picturesque uniforms and cocked hats with red and blue cockades, and a captain of carabinieri stands beside each witness as he gives his testimony. Thus the court, which is in the form of a cross, is naturally divided into four parts and a centre: in front the spectators, on the right the prisoners, on the left the jury, between them the lawyers, and at the end the judges and officers of the assize. A mellow light filters down from above, rather trying to the eyes.

The Camorristi, heavily shackled, are brought in from a side entrance, each in custody of two carabinieri, their chains are removed, the prisoners are thrust behind the bars; and the guards step to one

side and remain crowded around and behind the cage during the session. In a separate steel cage sits Abbatemaggio, the informer, at an oblique distance of about five feet from the other prisoners. A guard stands between the two cages. If one meets a file of these prisoners in one of the corridors, he will be surprised, and perhaps embarrassed, to find that each, as he approaches, will raise his shackled hands to his head, remove his hat, and bow courteously, with a "*Buon giorno*" or "*Buona sera*." While this may be one of the universal customs of a polite country, one cannot help feeling that it is partly due to an instinctive desire of the accused for recognition as human beings. All are scrupulously clean and dressed in the heights of Italian fashion. In fact, the Camorristi are much the best-dressed persons in the court-room, and the judicial officials, when off duty and in fustian, look a shade shabby by contrast. The funds of the Camorristi seem adequate both for obtaining witnesses and retaining lawyers; and the difference between one's mental pictures of a lot of Neapolitan thieves and cutthroats and the apotheosized defendants on trial is at first somewhat startling. Looking at them across the court-room, they give the impression of being exceptionally intelligent and smartly dressed men—not unlike a section of the grandstand taken haphazard at a National League game. Closer scrutiny reveals the merciless lines in most of the faces, and the catlike shiftiness of the eyes.

As for the lawyers,—the *avvocati*,—they seem very much like any group of American civil lawyers and

distinctly superior to the practitioners in our criminal courts. Many are young and hope to win their spurs in this celebrated case. Others are old war-horses whose fortunes are tied up with those of the Camorra. At least one such, *Avvocato* Liroy, is of necessity giving his services for nothing. But it is when the *avvocato* rises to address the court that the distinction between him and his American brother becomes obvious; for he is an expert speaker, trained in diction, enunciation, and delivery, and rarely in our own country (save on the stage or in the pulpit) will one hear such uniform fluency and eloquence. Nor is the speech of the advocate less convincing for its excellence, for these young men put a fire and zeal into what they say that compel attention.

Now, if the prisoners are all seated, the captain of *carabinieri* raps upon the floor with his scabbard, and the occupants of the room, prisoners, advocates, jury, and spectators, rise as the president, vice-president, prosecutor, vice-prosecutor, and *cancelliere* enter in their robes. The president makes a bow, the others bow a little, the lawyers bow, and everybody sits down—that is to say, everybody who has arisen; for Don Ciro Vitozzi and “Professor” Rapi, who sit outside and in front of the cage (the “professor” has already been confined longer than any term to which he could be sentenced, and both have pleaded sickness as an excuse for leniency), make a point of showing their superiority to the vulgar herd by waiting until the last moment and then giving a partial but ineffectual motion as if to stand.

The five men upon the dias are, however, worthy of considerable attention. The president, who occupies the centre seat, is a stout, heavily built, "stocky" man with a brownish-gray beard. In his robes he is an imposing and dignified figure, in spite of his lack of height. All wear gowns with red and gold braid and tassels, and little round caps with red "topknots" and gold bands. This last ornament is omitted from the uniform of the *cancelliere*, who is the official scribe or recorder of the court. And just here is noticeable a feature which tends to accelerate the proceedings, for there are no shorthand minutes of the testimony, and only a rough digest of what goes on is made. This is, for the most part, dictated by the president, under the correction of the advocates and the officers of the court, who courteously interrupt if the record appears to them inaccurate. If they raise no objection the record stands as given. Thus thousands of pages of generally useless matter are done away with, and the record remains more like the "notes" of a careful and painstaking English judge. Any particular bit of testimony or the gist of it can usually be found very quickly, without (as in our own courts of law) the stenographer having to wade through hundreds of pages of questions and answers before the matter wanted can be unearthed, buried, like as not, under an avalanche of objections, exceptions, wrangles of counsel, and irrelevant or "stricken out" testimony.

At the left of the semicircle sits the acting *procuratore del re*—another small man who, on the bench,

makes a wonderfully dignified impression. He plays almost as important a part in the proceedings as the president himself, and is treated with almost equal consideration. This is Cavaliere Santaro, one of the most learned and eloquent lawyers in Italy. To hear him argue a point in his crisp, clean-cut, melodious voice is to realize how far superior Italian public speaking is to the kind of oratory prevalent in our courts, and national legislature, and on most public occasions throughout the United States. Beside both the president and the *procuratore del re* sits a "vice," or assistant, to each, to take his place when absent and to act as associate at other times. The *cancelliere* occupies the seat upon the right nearest the prisoners' cage.

The president having taken his place, the first order of the day is the reading or revision of all or part of the record of the preceding session. This is done by the *cancelliere* who, from time to time, is interrupted by the lawyers, Abbatemaggio, or the prisoners. These interruptions are usually to the point, and are quickly disposed of by the judge, although he may allow an argument thereon at some length from one of the advocates. The court then proceeds with the introduction of evidence, documentary or otherwise, the examination of the witnesses, or the confronting of the prisoners with their accusers. Now is immediately observable for the first time the characteristic of Italian criminal procedure which has been so much misrepresented and has been the cause of such adverse criticism in the

United States and England—namely, the constant interruption of the proceedings by argument or comment from the lawyers, and by remarks and contradictions from the prisoners and witnesses. These occasionally degenerate into altercations of a more or less personal nature; but they are generally stilled at a single word of caution from the judge, and serve to bring out and accentuate the different points at issue and to make clear the position of the different parties. When such interruptions occur, the proceedings ordinarily resemble a joint discussion going on among a fairly large gathering of people presided over by a skilful moderator.

A witness is testifying. In the middle of it (and "it" consists of not only what the witness has seen, but what he has been told and believes) one of the prisoners rises and cries out:

"That is not so! He is a liar! Abbatemaggio swore thus and so."

"Nothing of the kind!" retorts the witness impatiently.

"Yes! Yes!" or "No! No!" chime in the advocates.

"Excellency! Excellency!" exclaims Abbatemaggio himself, jumping to his feet in his cage. "I said in my testimony that Cuocolo *did* accuse Erricone," etc. And he goes on for two or three minutes, explaining just what he did or did not say or mean, while the president listens until he has had sufficient enlightenment, and stops him with a sharp "*Basta!*" ("Enough!").

The incident (whatever its nature) usually tends

to elucidate the matter, and while to an outsider, especially one not familiar with Italian dialects, the effect may be one of temporary confusion, it is nevertheless not as disorderly as it seems, and the president rarely (so far as the writer could see during many days of observation) loses complete command of his court, or permits any one to go on talking unless for a clear and useful purpose. At times, when everybody seemed to be talking at once, and several lawyers, Abbatemaggio, and one or two prisoners were on their feet together, his handling of the situation was little short of marvellous, for he would almost simultaneously silence one with a sharp "S-s-s!" shake his head at another, direct a third to sit down, and listen to a fourth until he stilled him with a well-directed "*Basta!*" When the shouting is over, one usually finds that who is the liar has been pretty clearly demonstrated.

In this connection, however, it should be said that the writer was perhaps fortunate (or unfortunate, as the reader may prefer) in not being present on those days when the scenes of greatest excitement and confusion occurred. Several times, it is true, President Bianchi has preferred to adjourn court entirely on account of the uproar, rather than take extreme measures against individual defendants or witnesses. Thus, during the entire conduct of the case and in spite of the grossest provocation, he has ordered the forcible removal of only three defendants—that of Morro on June 21, 1911, and of Alfano and Abbatemaggio on July 21, 1911. On several other occasions

he has adopted the more gentle expedient of adjourning the proceedings and clearing the court, and this has resulted in a certain amount of criticism from the Italian bar, which otherwise regards his presiding as a model of efficiency. The only adverse comment that the writer has heard in Italy, either of the president or the *procuratore del re*, is that both are somewhat lenient toward the conduct of the prisoners and their advocates, and lack strength in dealing with exigencies of the character just described. In the long run, however, if such criticism be just, such an attitude is bound to be in favor of justice, and will irresistibly convince the public and the world at large that this is no attempt on the part of the government to "railroad" a lot of suspected undesirables at any cost, whatever the evidence may be.

Before commenting too harshly upon this mote in the eye of Italian procedure, it may not be unwise to consider whether any similar beam exists in our own. Certainly there is a deal of interruption, contradiction, and disputation in our own criminal courts which sometimes is not only undignified, but frequently ends in an unseemly dispute between judge and lawyers. Contempt of court is very general in the United States, and we have practically no means for punishing it. Moreover, these scenes in our own courts do not usually assist in getting at the truth. With us, once a witness has spoken and his testimony has become a matter of record, whether he has said what he meant to say or not (under the complicated questions put in examination and cross-exam-

ination), or whether or not he has succeeded in giving an accurate impression of what he saw or knows, he is hustled out of the way and made to keep silence. He has little, if any, chance to explain or annotate his testimony. A defendant may go to jail or be turned loose on the community because the witness really didn't get a chance to tell his own story in his own way. Now, the witness's own story in precisely his own way is just what they are looking for under the inquisitorial procedure, and if he is misinterpreted they want to know it. The process may take longer, but it makes for getting at the truth, and the Italians regard a criminal trial as of even more importance than do some of our judges, who often seem more anxious to get through a record-breaking calendar and "dispose of" a huge batch of cases than to get at the exact facts in any particular one. There is nothing "hit or miss" about the Continental method. Whatever its shortcomings, whatever its limitations to the cold Anglo-Saxon mind, it brings out all the details and the witness's reasons. At an Italian trial a witness might testify (and his evidence be considered as important) that he heard sounds of a scuffle and a man's voice exclaim, "You have stabbed me, Adolfo!" that somebody darted across the street and into an alley, that an old woman whom he identifies in court as the deceased's mother, and who was standing beside him, cried out, "That is my son's voice!" and that three or four persons came running up from several different locations, each of whom described, circumstantially and independently, a

murder which he had seen perpetrated, identifying the assassin by name.

In America it is doubtful whether in most jurisdictions the witness would be permitted to testify to anything except that he heard a scuffle, saw a man run away, and that an old woman and several other people thereupon said *something*.

It must not be supposed that the trial of the Camorra is being conducted with the calm of a New England Sabbath service; but the writer wishes to emphasize the fact that the confusion, such as it is, serves a certain purpose, and that the yellings and heartrending outcries described by the newspaper correspondents are only occasional and much exaggerated—except in so far as they might occur at an Italian trial in America. Any one who has been present at many murder trials in New York knows that outbreaks on the part of Italian prisoners are to be anticipated and are frequent if not customary. The writer recalls more than one case where the defendant shrieked and rolled on the floor, clutching at the legs of tables, chairs, and officers, until dragged by main force from the court-room. And at Viterbo they are trying thirty-six Italians at the same time; and every person participating in or connected with the affair is an Italian, sharing in the excitability and emotional temperament of his fellows.

A noteworthy feature of this particular prosecution is that (due doubtless to the strength and ability of the presiding judge), in spite of all interruptions and the freedom of discussion, the taking of evidence

proceeds with a rapidity greater than in America, for the reason that there are no objections or exceptions, or attendant argument, and, above all, no cross-examination, except such questions as are put by the judge himself at the request of the advocates.

Finally, the system of the *confronto*, or confronting of the accused by his accuser, deserves a word of commendation, for no method could possibly be devised whereby the real character and comparative truthfulness of each would be so readily disclosed. The defendant is given on this occasion free scope to cross-examine the witness and deny or refute what he says, and it takes ordinarily but a few minutes before the mask is torn aside and each pictures himself in his true colors. Our procedure tends to deprive the witnesses of personality and to reduce them all to a row of preternaturally solemn and formal puppets. It is probably true that in most criminal cases in America the defendant is convicted or acquitted without the jury having any very clear idea of what sort of person he really is. On the day of his trial the prisoner makes a careful toilet, is cleanly shaved, and dons a new suit of clothes and fresh linen. The chances are that, as he sits at the bar of justice, he will make at least as good and very possibly a more favorable impression upon the jury than the witnesses against him, who have far less at stake than he. Each takes the stand and is sworn to tell the truth, so far as they will be permitted to do so under our rules of evidence. Then the district attorney proceeds to try to extract their story of the crime under a storm

of objections, exceptions, and hasty rulings from the judge. Then the prisoner's lawyer (who can take all the liberties he wants, as the State has no appeal in case of an acquittal) proceeds to mix things up generally by an unfair and confusing cross-examination. At last the defendant is called, and marches to the stand, looking like an early Christian martyr. He is carefully interrogated by his lawyer, who permits him (if he be wise) to do nothing but deny the salient facts against him. The district attorney, to be sure, has the right of cross-examination, but a skilful criminal lawyer has plenty of opportunities to "nurse" his client along and guide him over pitfalls; and when all is over the jury have formed no valuable or accurate impression of the defendant's real character and personality—whether or not, in other words, he is the kind of man who *would have done* such a thing.

In Italy (to use vulgar English) they "sic" them at each other and let them fight it out, and while the language of the participants is often not parliamentary, the knowledge that they are being watched by the judge and jury has a restraining effect, and the presence of the carabinieri makes violence no more likely than in our own courts. Occasionally, in America, where a prisoner insists on conducting his own defence, a similar scene may be witnessed—always, it may be affirmed, to the enlightenment of the jury. On the other hand, most confrontations are attended with few sensational incidents or emotional outbreaks.

The writer was fortunate enough to be present

when "Professor" Rapi was confronted by Gennaro Abbatemaggio, and, to his surprise, found that the proceeding, instead of being interspersed with yells of rage and vehement invocations to Heaven, closely resembled a somewhat personal argument between two highly intelligent and deeply interested men of affairs. Whatever may be Rapi's real character (and he is said to supply a large part of the brains of the Camorra, as well as handling all its funds), he is, as he stands up in court, a fine-looking, elegantly dressed man, of polished manners and speech. If the evidence against him is to be believed, however, his mask of gentility covers a heart of mediæval cruelty and cunning, for he is alleged to have made the plans and given the final directions to Sortino for the murder of the Cuocolos. Rapi is a celebrated gambler, and as such may have had the acquaintance of some decadent members of the Italian aristocracy, who not only knew him in the betting ring at the races, but frequented his establishment in Naples, which he called the "Southern Italy Club." In 1875, at the age of eighteen, he won against four hundred candidates the position of instructor in classical languages in the municipality of Naples. Some ten years later, in 1884, he moved with his parents to France. At this time he was suspected of having something to do with the murder of a Camorrist youth, named Giacomo Pasquino, who, in fact, was killed in a duel with a fellow member of the society.

From that time on Rapi became a professional gambler, and as such was expelled from France in

1902. Later he returned to Naples and opened a sort of "Canfield's" there. At any rate, he boasts that it was the centre of attraction for dukes and princes. That he had any sort of acquaintance with or admission to aristocratic circles is entirely untrue; but he certainly was a figure in the fast life of the town, and used what position he had to further the ends of the Camorra. It is alleged that he was the actual treasurer of the Camorra, and disbursed the funds of its central organization, apportioning the proceeds of robberies and burglaries among the participants, and acting as head receiver for all stolen goods. Certainly he was a friend of "Erricone" and an associate of well-known Camorristi, and he was one of the five arrested immediately after the Cuocolo murders on suspicion of complicity, because of his known presence on the night of the crime at Torre del Greco, not far from the place where the murder of Gennaro Cuocolo was perpetrated. For fifty-two days he remained in prison, and was then set at liberty through the efforts of Father Ciro Vitozzi. He continued to reside in Naples until April, 1908, when the French decree against him was cancelled and he returned to Paris, after holding a sort of informal levee at the Naples railroad station, where many persons of local distinction, journalists, and others came to see him off. It was in the following June that he says he read in a Paris paper that his departure from Naples was regarded as a flight. He wired to the *procuratore del re* at Naples, offering to place himself absolutely at the disposition of the authorities; but, receiving no

response, he returned by train to Naples to present himself before the magistrates. He was promptly arrested *en route*, and for four years has been in jail, being questioned by the authorities on only three occasions during that period. He claims that at the time of the murder he was living in England, and his elaborate alibi is supported by a number of witnesses whose testimony is more or less relevant.

Without dilating on the individual history of this sleek gentleman, be he merely gambler or full-fledged accomplice in many murders, it is enough to say that when confronted by Abbatemaggio he conducted himself with the most suave and courteous moderation. Alternately he would politely engage the informer in argument or ask him a question or two, and then in polished sentences would address the jury and spectators.

He is the antithesis of Abbatemaggio, who has an insolent confidence and braggadocio about him that carry with them a certain first-hand impression of sincerity. In fact, the fiery little black-haired coachman has proved so convincing to the public that the Camorristas have been driven to allege that he is mad. He gives no indication of madness, however, although the government, to refute any such contention, has an alienist, Professor Otto Lenghi, in court to keep him under constant surveillance. His memory is astonishing and uncannily accurate. His mind works with marvellous rapidity, and had he been born in a different environment he would have made his mark in almost any line that he might have chosen. He

has all the instincts and tricks of the actor, is a master of repartee, extremely witty, with a tongue like a razor, and delights the spectators with his sallies and impertinences. Altogether Abbatemaggio is the centre of attraction at Viterbo—and knows it. He makes the court wait on his health and convenience, and has evidently made up his mind that, if his life is to be short, he will at least make it as merry as possible. Naturally he is a sort of popular idol, and a *confronto* in which he is one of the participants draws a crowd of the townspeople, who applaud his gibes and epigrams and jeer at his Camorrist opponent.

On the afternoon of the Rapi-Abbatemaggio *confronto* the "Professor" arose with great dignity, bowed low to the court and jury, folded his hands over his stomach, and faced the audience with an air of patient resignation. Then the captain of carabinieri unlocked Abbatemaggio's cage, and the little coachman sprang to his feet, gave a twirl to his moustache and a contemptuous glance at Rapi as if to say, "Look at the old faker! See how I shall show him up!"

With an attitude respectful toward the court and scornful toward Rapi, he takes his stand by the *procuratore del re* and awaits his antagonist's attack. The "Professor" accosts him gently, almost pathetically. Abbatemaggio answers in cold, unsympathetic tones that tell the spectators that they must not be deceived by the oily address of this arch-conspirator. But Rapi, with his magnificent voice, is a

foe to be reckoned with, and presently he enters upon a denunciation of the informer that is distinctly eloquent and full of vehement sarcasm. Abbatemaggio flushes and interrupts him, the "Professor" attempts to proceed, but the little coachman sweeps him out of the way and pours forth a rapid-fire volley of Neapolitan dialect in which he accuses Rapi of being a hypocrite and a liar and a man who lives on the criminality of others, referring specifically to various enterprises in which they have both been engaged as partners. He pauses for breath, and Rapi plunges in, contradicting, denouncing, and accusing in turn. The prisoners by interjectory exclamations show their approval.

"Sh-sh-sh!" remarks *il presidente*, raising a finger.

"Excellency! Excellency!" exclaims Abbatemaggio deprecatingly, as if pained that the judge should be compelled to listen to such an outburst.

Presently he can restrain himself no longer, and both he and Rapi begin simultaneously to harangue the court, until the president orders Abbatemaggio to stop and the captain of carabinieri touches Rapi on the shoulder. The latter is now reduced to tears and wrings his hands as he calls his aged mother to witness that he is an innocent man! Soon order is restored, and the *confronto* concludes with a sort of summing up of his defence on the part of the "Professor." It is a model of rhetoric, rather too carefully calculated to appear as sincere as his previous outbursts. He calls down the curses of God upon Abbatemaggio, who listens contemptuously; he pro-

tests the purity of his life and motives; he weeps at the irony of fate that keeps him—the merest object of suspicion—confined in a loathsome prison. Then he bows and resumes his seat by the side of Father Ciro Vitozzi, to whom, amid the laughter of the spectators, he has referred as “that holy man there.” And, apart from the argument between him and Abbatemaggio, there has really been no more denunciation, no more emotion, no more tears, than if an ordinary criminal attorney in a New York City court were summing up an important case.

Court adjourns. No sooner has the judge departed than an outcry is heard from the cage.

“I am tired—*tired—tired!*” exclaims an agonized voice. “I have been in prison for five years! Everybody else talks and I have to listen. I am not allowed to speak, and nothing ever happens! It is interminable! I cannot stand it!”

It is “Erricone” having one of his periodical moments of relief. After all, one is not inclined to blame him very much, for there is a good deal of truth in what he says—owing to the way the case was bungled in its earlier stages. The carabinieri rush up, “Erricone” is pacified by his fellow Camorristi, and quiet is restored. One inquires if there is generally any more excitement than has just occurred, and is told that it has been quite a sensational day, but then—that “Erricone” is always “yelling.” A good many defendants make a noise and carry on—and so do their relatives—after court has adjourned, in America.

One is in doubt whether to believe Abbatemaggio on the one hand or Rapi on the other, and ends by concluding that it would be utterly impossible to believe either. Both were acting, both playing to the gallery. You know Rapi is a crook, and—well you wouldn't trust Abbatemaggio, either, around the corner. And, after all, it is the word of the one against that of the other so far as any particular defendant is concerned. But one fixed impression remains—that of the aplomb, intelligence, and cleverness of these men, and the danger to a society in which they and their associates follow crime as a profession. Once more you study the faces of the well-dressed prisoners in the cage, of the four alleged assassins of Cuocolo—Morra, Sortino, de Gennaro, and Cerrato; of Giuseppe Salvi, the murderer of Maria Cutinelli; of Luigi Fucci, the dummy head of the Camorra; of "Erricone" Alfano, the wolfish supreme chief and dictator of the society; of Luigi Arena, the captain of the Neapolitan burglars; of that mediæval rascal, "Father" Ciro Vitozzi, the most picturesque figure of the lot; of Desiderio, head of petty black-mailing and tribute-levying industry; of Maria Stendardo, whose house was a Camorrist hell; and of Rapi, the gambling "professor" and "Moriarty" of Naples—and you know instinctively that, whether as an abstract proposition Abbatemaggio conveys an impression of absolute honesty or not, what he has said is true and that this is the Camorra—the real Camorra, vile, heartless, treacherous!

Then, if you were asked to give your impressions

of the way the trial was being carried on, you would probably say that, considering the magnitude of the task involved, the mass of evidence (there are forty volumes of the preliminary examinations), the great number of prisoners and the multitude of witnesses, and the latitude allowed under the Italian law in the matter of taking testimony, the trial was being conducted considerably faster than would be probable in America under like conditions; that the methods followed are admirably calculated to ascertain the truth or falsity of the charges; that the judge presides with extreme fairness, courtesy, and ability; that, all things considered, there is, as a rule, less confusion or disorder than would be naturally expected—that, in a word, the Italian government is making a good job of it, and deserves to be congratulated.

Indeed, so far as the procedure is concerned, it is not so very different from our own, and, were it not for the presence of the uniforms of the carabinieri and the officers of infantry in the court-room, and the huge cage in which the prisoners are confined, one could easily imagine one's self in a court in America. The conduct of the trial is far more free, far less formal, than with us—a fact which, the writer believes, makes in the end for effectiveness, although the excitability of the Italian temperament occasionally creates something of an uproar, which calls for a suspension of proceedings. Doubtless the prisoners give vent to cries of rage and humiliation; perhaps one or two of them in the course of the trial may faint or have fits (such things happen with us); the

judge and lawyers may squabble, and accuser and accused roundly curse each other. Such things could hardly help occurring in a trial lasting, perhaps, a year. In fact, deaths and births have occurred among them during this period, for Ciro Alfano has passed away and Maria Stendardo has given birth to a child; but, on the whole, there is probably no more excitement, no more confusion, no more bombast, and vastly less sensationalism than if thirty-six members of the Black Hand were being tried *en masse* in one of our own criminal courts for a double murder, involving the existence of a criminal society whose ramifications extended into the national legislature and whose affiliations embraced the leaders of a local political organization and many officials and members of the New York police.

## CHAPTER IX

### THE MALA VITA IN AMERICA

THERE are a million and a half of Italians in the United States, of whom nearly six hundred thousand reside in New York City—more than in Rome itself. Naples alone of all the cities of Italy has so large an Italian population; while Boston has one hundred thousand, Philadelphia one hundred thousand, San Francisco seventy thousand, New Orleans seventy thousand, Chicago sixty thousand, Denver twenty-five thousand, Pittsburg twenty-five thousand, Baltimore twenty thousand, and there are extensive colonies, often numbering as many as ten thousand, in several other cities.

So vast a foreign-born population is bound to contain elements of both strength and weakness. The north Italians are *molto simpatici* to the American character, and many of their national traits are singularly like our own, for they are honest, thrifty, industrious, law-abiding, and good-natured. The Italians from the extreme south of the peninsula have fewer of these qualities, and are apt to be ignorant, lazy, destitute, and superstitious. A considerable percentage, especially of those from the cities, are criminal. Even for a long time after landing in America, the Calabrians and Sicilians often exhibit a lack of en-

lightenment more characteristic of the Middle Ages than of the twentieth century.

At home they have lived in a tumble-down stone hut about fifteen feet square, half open to the sky (its only saving quality); in one corner the entire family sleeping in a promiscuous pile on a bed of leaves; in another a domestic zoo consisting of half a dozen hens, a cock, a goat, and a donkey. They neither read, think, nor exchange ideas. The sight of a uniform means to them either a tax-gatherer, a compulsory enlistment in the army, or an arrest, and at its appearance the man will run and the wife and children turn into stone. They are stubborn and distrustful. They are the same as they were a thousand or more years gone by.

When the writer was acting as an assistant prosecutor in New York County, a young Italian, barely twenty years of age, was brought to the bar charged with assault with intent to kill. The complainant was a withered Sicilian woman who claimed to be his wife. Both spoke an almost unintelligible dialect. The case on its face was simple enough. An officer testified that on a Sunday morning in Mulberry Bend Park, at a distance of about fifty feet from where he was standing, he saw the defendant, who had been walking peaceably with the complaining witness, suddenly draw a long and deadly looking knife and proceed to slash her about the head and arms. It had taken the officer but a moment or two to seize the defendant from behind and disarm him, but in the meantime he had inflicted some eleven wounds upon

her body. No explanation had been offered for this terrible assault, and the complainant had appeared involuntarily before the Grand Jury and afterward had to be kept in the House of Detention as a hostile witness. The woman, who appeared to be about fifty years old, was sworn, and on being questioned stated that she had been married to the defendant in Sicily three years before. She declined to admit that he had attacked or harmed her in any way, constantly mumbling: "He is my husband. Do not punish him!"

The defendant, however, seemed eager to get on the stand and to tell his story; nor did the introduction of the knife in evidence or the exhibition of the woman's wounds embarrass him in the slightest degree. His manner was that of a man who had only to explain to be entirely exonerated from blame. He nodded at the jury and the judge, and scowled at the complainant, who was speedily conducted to a place where no harm could possibly come to her. When at last he was sworn, he could hardly restrain himself into coherency.

"Yes—that woman forced me to marry her!" he testified in substance. "But in the eyes of God I am not her husband, for she bewitched me! Else would I have married an old crone who could not have borne me children? When her spells weakened I left her and came to America. Here I met the woman I love,—Rosina,—and as I had been bewitched into the other marriage, we lived together as man and wife for two years. Then one day a

friend told me that the old woman had followed me over the sea and was going to throw her spells upon me again. But I did not inform Rosina of these things. The next evening she told me that an old woman had been to the house and asked for me. For days my first wife lurked in the neighborhood, beseeching me to come back to her. But I told her that in the eyes of God she was not my wife. Then, in revenge, she cast the evil eye upon the child—*sul bambino*—and for six weeks it ailed and then died. Again the witch asked me to go with her, and again I refused. This time she cast her evil eye upon my wife—and Rosina grew pale and sick and took to her bed. There was only one thing to do, you understand. I resolved to slay her, just as you—*giudici*—would have done. I bought a carving-knife and sharpened it, and asked her to walk with me to the park, and I would have killed her had not the police prevented me. Wherefore, *O giudici!* I pray you to recall her and permit me to kill her or to decree that she be hung!”

This case illustrates the depths of ignorance and superstition that are occasionally to be found among Italian peasant immigrants. Another actual experience may demonstrate the mediæval treachery of which the Sicilian Mafioso is capable, and how little his manners or ideals have progressed in the last five hundred years or so.

A photographer and his wife, both from Palermo, came to New York and rented a comfortable home with which was connected a “studio.” In the course

of time a young man—a Mafiuso from Palermo—was engaged as an assistant, and promptly fell in love with the photographer's wife. She was tired of her husband, and together they plotted the latter's murder. After various plans had been considered and rejected, they determined on poison, and the assistant procured enough cyanide of mercury to kill a hundred photographers, and turned it over to his mistress to administer to the victim in his "Marsala." But at the last moment her hand lost its courage and she weakly sewed the poison up for future use inside the ticking of the feather bolster on the marital bed.

This was not at all to the liking of her lover, who thereupon took matters into his own hands, by hiring another Mafiuso to remove the photographer with a knife-thrust through the heart. In order that the assassin might have a favorable opportunity to effect his object, the assistant, who posed as a devoted friend of his employer, invited the couple to a Christmas festival at his own apartment. Here they all spent an animated and friendly evening together, drinking toasts and singing Christmas carols, and toward midnight the party broke up with mutual protestations of regard. If the writer remembers accurately, the evidence was that the two men embraced and kissed each other. After a series of farewells the photographer started home. It was a clear moonlight night with the streets covered with a glistening fall of snow. The wife, singing a song, walked arm in arm with her husband until they came to a

corner where a jutting wall cast a deep shadow across the sidewalk. At this point she stepped a little ahead of him, and at the same moment the hired assassin slipped up behind the victim and drove his knife into his back. The wife shrieked. The husband staggered and fell, and the "bravo" fled.

The police arrived, and so did an ambulance, which removed the hysterical wife and the transfixed victim to a hospital. Luckily the ambulance surgeon did not remove the knife, and his failure to do so saved the life of the photographer, who in consequence practically lost no blood and whose cortex was skilfully hooked up by a dextrous surgeon. In a month he was out. In another the police had caught the would-be murderer and he was soon convicted and sentenced to State prison, under a contract with the assistant to be paid two hundred and fifty dollars for each year he had to serve. Evidently the lover and his mistress concluded that the photographer bore a charmed life, for they made no further homicidal attempts.

So much for the story as an illustration of the mediæval character of some of our Sicilian immigrants. For the satisfaction of the reader's taste for the romantic and picturesque it should be added, however, that the matter did not end here. The convict, having served several years, found that the photographer's assistant was not keeping his part of the contract, as a result of which the assassin's wife and children were suffering for lack of food and clothing. He made repeated but fruitless attempts to compel

the party of the first part to pay up, and finally, in despair, wrote to the District Attorney of New York County that he could, if he would, a tale unfold that would harrow up almost anybody's soul. Mr. Jerome therefore, on the gamble of getting something worth while, sent Detective Russo to Auburn to interview the prisoner. That is how the whole story came to be known. The case was put in the writer's hands, and an indictment for the very unusual crime of attempted murder (there are only one or two such cases on record in New York State) was speedily found against the photographer's assistant. At the trial the lover saw his mistress compelled to turn State's evidence against him to save herself. She testified to the Christmas carols and the cyanide of mercury.

"Did you ever remove this terrible poison from the bolster?" demanded the defendant's counsel in a sneering tone.

"No," answered the woman.

"Have you ever changed the bolster?" he persisted.

"No."

"Then it's there yet?"

"I—I think so," falteringly.

"I demand that this incredible yarn be investigated!" cried the lawyer. "I ask that the court send for the bolster and cut it open here in the presence of the jury."

The writer had no choice but to accede to this request, and the bolster was hunted down and brought

into court. With some anxiety both sides watched while the lining was slit with a penknife. A few feathers fluttered to the floor as the fingers of the witness felt inside and came in contact with *the poison*. The assistant was convicted of attempted murder on the convict's testimony, and sentenced to Sing Sing for twenty-five years. That was the end of the second lesson.

About a month afterward the defendant's counsel made a motion for a new trial on the ground that the convict now admitted his testimony to have been wholly false, and produced an affidavit from the assassin to that effect. Naturally so startling an allegation demanded investigation. Yes, insisted the "bravo," it was all made up, a "camorra"—not a word of truth in it, and he had invented the whole thing in order to get a vacation from State prison and a free ride to New York. However, the court denied the motion. The writer procured a new indictment against the assassin—this time for perjury—and he was sentenced to another additional term in prison. What induced this sudden and extraordinary change of mind on his part can only be surmised.

These two cases are extreme examples of the mediævalism that to a considerable degree prevails in New York City, probably in Chicago and Boston, and wherever there is an excessive south Italian population.

The conditions under which a large number of Italians live in this country are favorable not only

to the continuance of ignorance, but to the development of disease and crime. Naples is bad enough, no doubt. The people there are poverty-stricken and homeless. But in New York City they are worse than homeless. It is better far to sleep under the stars than in a stuffy room with ten or twelve other persons. Let the reader climb the stairs of some of the tenements in Elizabeth Street, or go through those in Union Street, Brooklyn, and he will get first-hand evidence. This is generally true of the lower class of Italians throughout the United States, whether in the city or country. They live under worse conditions than at home. You may go through the railroad camps and see twenty men sleeping together in a one-room hut of lath, tar-paper, and clay. The writer knows of one Italian laborer in Massachusetts who slept in a floorless mud hovel about six feet square, with one hole to go in and out by and another in the roof for ventilation—in order to save \$1.75 per month. All honor to him! Garibaldi was of just such stuff, only he suffered in a better cause. In Naples the young folks are out all day in the sun. Here they are indoors all the year round. For the consequences of this change see Dr. Peccorini's article in the *Forum* for January, 1911, on the tuberculosis that soon develops among Italians who abroad were accustomed to live in the country but here are forced to exist in tenements.

Now, for historic reasons, these south Italians hate and distrust all governmental control and despise any appeal to the ordinary tribunals of justice

to assert a right or to remedy a wrong. It has been justly said by a celebrated Italian writer that, in effect, there is some instinct for civil war in the heart of every Italian. The insufferable tyranny of the Bourbon dynasty made every outlaw dear to the hearts of the oppressed people of the Kingdom of the Two Sicilies. Even if he robbed them, they felt that he was the lesser of two evils, and sheltered him from the authorities. Out of this feeling grew the "Omertà," which paralyzes the arm of justice both in Naples and Sicily. The late Marion Crawford thus summed up the Sicilian code of honor:

According to this code, a man who appeals to the law against his fellow man is not only a fool but a coward, and he who cannot take care of himself without the protection of the police is both. . . . It is reckoned as cowardly to betray an offender to justice, even though the offence be against one's self, as it would be not to avenge an injury by violence. It is regarded as dastardly and contemptible in a wounded man to betray the name of his assailant, because if he recovers he must naturally expect to take vengeance himself. A rhymed Sicilian proverb sums up this principle, the supposed speaker being one who has been stabbed. "If I live, I will kill thee," it says; "if I die, I forgive thee!"

Any one who has had anything to do with the administration of criminal justice in a city with a large Italian population must have found himself constantly hampered by precisely this same "Omertà." The south Italian feels obliged to conceal the name of the assassin and very likely his person, though he himself be but an accidental witness of the crime; and, while the writer knows of no instance in New

York City where an innocent man has gone to prison himself rather than betray a criminal, Signor Cutera, formerly chief of police in Palermo, states that there have been many cases in Sicily where men have suffered long terms of penal servitude and even have died in prison rather than give information to the police.

In point of fact, however, the "Omertà" is not confined to Italians. It is a common attribute of all who are opposed to authority of any kind, including small boys and criminals, and with the latter arises no more from a half chivalrous loyalty to their fellows than it does from hatred of the police and a uniform desire to block their efforts (even if a personal adversary should go unpunished in consequence), fear that complaint made or assistance given to the authorities will result in vengeance being taken upon the complainant by some comrade or relative of the accused, distrust of the ability of the police to do anything anyway, disgust at the delay involved, and lastly, if not chiefly, the realization that as a witness in a court of justice the informer as a professional criminal would have little or no standing or credence, and in addition would, under cross-examination, be compelled to lay bare the secrets of his unsavory past, perhaps resulting indirectly in a term in prison for himself.\* Thus may be accounted for much of the supposed "romantic, if misguided, chivalry" of the south Italian. It is common both to him and to the Bowery tough. The writer knew personally a pro-

\* Much more likely in Italy than in the United States.

fessional crook who was twice almost shot to pieces in Chatham Square, New York City, and who persistently declined, even on his dying bed, to give a hint of the identity of his assassins, announcing that if he got well he "would attend to that little matter himself." Much of the romance surrounding crime and criminals, on examination, "fades into the light of common day"—the obvious product not of idealism, but of well-calculated self-interest.

As illustrating the backwardness of our Italian fellow-citizens in coming forward when the criminality of one of their countrymen is at stake, the last three cases of kidnapping in New York City may be mentioned.

About a year and a half ago the little boy of Dr. Scimeca, of 2 Prince Street, New York, was taken from his home. From outside sources the police heard that the child had been stolen, but, although he was receiving constant letters and telephonic communications from the kidnappers, Dr. Scimeca would not give them any information. It is known on pretty good authority that the sum of \$10,000 was at first demanded as a ransom, and was lowered by degrees to \$5,000, \$2,500, and finally to \$1,700. Dr. Scimeca at last made terms with the kidnappers, and was told to go one evening to City Park, where he is said to have handed \$1,700 to a stranger. The child was found wandering aimlessly in the streets next day, after a detention of nearly three months.

The second case was that of Vincenzo Sabello, a grocer of 386 Broome Street, who lost his little boy

on August 26, 1911. After thirty days he reported the matter to the police, but shortly after tried to throw them off the track by saying that he had been mistaken, that the boy had not been kidnapped, and that he wished no assistance. Finally he ordered the detectives out of his place. About a month later the child was recovered, but not, according to reliable information, until Mr. Sabello had handed over \$2,500.

Pending the recovery of the Sabello boy, a third child was stolen from the top floor of a house at 119 Elizabeth Street. The father, Leonardo Quartiano, reported the disappearance, and in answer to questions stated that he had received no letters or telephone messages. "Why should I?" he inquired, with uplifted hands and the most guileless demeanor. "I am poor! I am a humble fishmonger." In point of fact, Quartiano at the time had a pocketful of blackmail letters, and after four weeks paid a good ransom and got back his boy.

It is impossible to estimate correctly the number of Italian *criminals* in America or their influence upon our police statistics; but in several classes of crime the Italians furnish from fifteen to fifty per cent of those convicted. In murder, assault with intent to kill, blackmail, and extortion they head the list, as well as in certain other offences unnecessary to describe more fully but prevalent in Naples and the South.

Joseph Petrosino, the able and fearless officer of New York police who was murdered in Palermo

while in the service of the country of his adoption, was, while he lived, our greatest guaranty of protection against the Italian criminal. But Petrosino is gone. The fear of him no longer will deter Italian ex-convicts from seeking asylum in the United States. He once told the writer that there were five thousand Italian ex-convicts in New York City alone, of whom he knew a large proportion by sight and name.\* Signor Ferrero, the noted historian, is reported to have stated, on his recent visit to America, that there were thirty thousand Italian criminals in New York City. Whatever their actual number, there are quite enough at all events.

By far the greater portion of these criminals, whether ex-convicts or novices, are the products or by-products of the influence of the two great secret societies of southern Italy. These societies and the unorganized criminal propensity and atmosphere which they generate, are known as the "Mala Vita."

The Mafia, a purely Sicilian product, exerts a much more obvious influence in America than the Camorra, since the Mafia is powerful all over Sicily, while the Camorra is practically confined to the city of Naples and its environs. The Sicilians in America vastly outnumber the Neapolitans. Thus in New York City for every one Camorrist you will find seven or eight Mafiusi. But they are all essentially of a

\* Petrosino is a national hero in Italy, where he was known as "Il Sherlock Holmes d'Italia"—"the Italian Sherlock Holmes." Many novels in which he figures as the central character have a wide circulation there.

piece, and the artificial distinction between them in Italy disappears entirely in America.

Historically the Mafia burst from a soil fertilized by the blood of martyred patriots, and represented the revolt of the people against all forms of the tyrannous government of the Bourbons; but the fact remains that, whatever its origin, the Mafia to-day is a criminal organization, having, like the Camorra for its ultimate object blackmail and extortion. Its lower ranks are recruited from the scum of Palermo, who, combining extraordinary physical courage with the lowest type of viciousness, generally live by the same means that supports the East Side "cadet" in New York City, and who end either in prison or on the dissecting-table, or gradually develop into real Mafiusi and perhaps gain some influence.

It is, in addition, an ultra-successful criminal political machine, which, under cover of a pseudo-principle, deals in petty crime, wholesale blackmail, political jobbery, and the sale of elections, and may fairly be compared to the lowest types of politico-criminal clubs or societies in New York City. In Palermo it is made up of "gangs" of toughs and criminals, not unlike the Camorrist gangs of Naples, but without their organization, and is kept together by personal allegiance to some leader. Such a leader is almost always under the patronage of a "boss" in New York or a *padrone* in Italy, who uses his influence to protect the members of the gang when in legal difficulties and find them jobs when out of work and in need of funds. Thus the "boss" can rely on the

gang's assistance in elections in return for favors at other times. Such gangs may act in harmony or be in open hostility or conflict with one another, but all are united as against the police, and exhibit much the same sort of "Omertà" in Chatham Square as in Palermo. The difference between the Mafia and Camorra and the "gangs" of New York City lies in the fact that the latter are so much less numerous and powerful, and bribery and corruption so much less prevalent, that they can exert no practical influence in politics outside the Board of Aldermen, whereas the Italian societies of the Mala Vita exert an influence everywhere—in the Chamber of Deputies, the Cabinet, and even closer to the King. In fact, political corruption has been and still is of a character in Italy luckily unknown in America—not in the amounts of money paid over (which are large enough), but in the calm and matter-of-fact attitude adopted toward the subject in Parliament and elsewhere.

The overwhelming majority of Italian criminals in this country come from Sicily, Calabria, Naples, and its environs. They have lived, most of their lives, upon the ignorance, fear, and superstitions of their fellow-countrymen. They know that so long as they confine their criminal operations to Italians of the lower class they need have little terror of the law, since, if need be, their victims will harbor them from the police and perjure themselves in their defence. For the ignorant Italian brings to this country with him the same attitude toward government

and the same distrust of the law that characterized him and his fellow-townsmen at home, the same Omertà that makes it so difficult to convict any Italian of a serious offence. The Italian crook is quick-witted and soon grasps the legal situation. He finds his fellow countrymen prospering, for they are generally a hard-working and thrifty lot, and he proceeds to levy tribute on them just as he did in Naples or Palermo. If they refuse his demands, stabbing or bomb-throwing show that he has lost none of his ferocity. Where they are of the most ignorant type he threatens them with the "evil eye," the "curse of God," or even with sorceries. The number of Italians who can be thus terrorized is astonishing. Of course, the mere possibility of such things argues a state of mediævalism. But mere mediævalism would be comparatively unimportant did it not supply the principal element favorable to the growth of the Mala Vita, apprehended with so much dread by many of the citizens of the United States.

Now, what are the phases of the Mala Vita—the Camorra, the Black Hand, the Mafia—which are to-day observable in the United States and which may reasonably be anticipated in the future?

In the first place, it may be safely said that of the Camorra in its historic sense—the Camorra of the ritual, of the "*Capo in Testa*" and "*Capo in Trino*," highly organized with a self-perpetuating body of officers acting under a supreme head—there is no trace. Indeed, as has already been explained, this phase of the Camorra, save in the prisons, is prac-

tically over, even in Naples. But of the Mala Vita there is evidence enough.

Every large city, where people exist under unwholesome conditions, has some such phenomenon. In Palermo we have the traditional Mafia—a state of mind, if you will, ineradicable and all-pervasive. Naples festers with the Camorra as with a venereal disease, its whole body politic infected with it, so that its very breath is foul and its moral eyesight astigmatized. In Paris we find the Apache, abortive offspring of prostitution and brutality, the twin brother of the Camorrista. In New York there are the “gangs,” composed of pimps, thugs, cheap thieves, and hangers-on of criminals, which rise and wane in power according to the honesty and efficiency of the police, and who, from time to time, hold much the same relations to police captains and inspectors as the various gangs of the Neapolitan Camorra do to commissaries and *delegati* of the “Public Safety.” Corresponding to these, we have the “Black Hand” gangs among the Italian population of our largest cities. Sometimes the two coalesce, so that in the second generation we occasionally find an Italian, like Paul Kelly, leading a gang composed of other Italians, Irish-Americans, and “tough guys” of all nationalities. But the genuine Black Hander (the real Camorrist or “Mafiuoso”) works alone or with two or three of his fellow-countrymen.

Curiously enough, there is a society of criminal young men in New York City who are almost the exact counterpart of the Apaches of Paris. They are

known by the euphonious name of "Waps" or "Jacks." These are young Italian-Americans who allow themselves to be supported by one or two women, almost never of their own race. These pimps affect a peculiar cut of hair, and dress with half-turned-up velvet collar, not unlike the old-time Camorrist, and have manners and customs of their own. They frequent the lowest order of dance-halls, and are easily known by their picturesque styles of dancing, of which the most popular is yclept the "Nigger." They form one variety of the many "gangs" that infest the city, are as quick to flash a knife as the Apaches, and, as a cult by themselves, form an interesting sociological study.

The majority of the followers of the Mala Vita—the Black Handers—are not actually of Italian birth, but belong to the second generation. As children they avoid school, later haunt "pool" parlors and saloons, and soon become infected with a desire for "easy money," which makes them glad to follow the lead of some experienced *capo maestra*. To them he is a sort of demi-god, and they readily become his clients in crime, taking their wages in experience or whatever part of the proceeds he doles out to them. Usually the "boss" tells them nothing of the inner workings of his plots. They are merely instructed to deliver a letter or to blow up a tenement. The same name is used by the Black Hander to-day for his "assistant" or "apprentice" who actually commits a crime as that by which he was known under the Bourbons in 1820. In those early days the second-

grade member of the Camorra was known as a *picciotto*. To-day the apprentice or "helper" of the Black Hander is termed a *picciott*' in the clipped dialect of the South. But the *picciotto* of New York is never raised to the grade of *Camorrista*, since the organization of the Camorra has never been transferred to this country. Instead he becomes in course of time a sort of bully or bad man on his own hook, a criminal "swell," who does no manual labor, rarely commits a crime with his own hands, and lives by his brain. Such a one was Micelli Palliozzi, arrested for the kidnapping of the Scimeco and Sabello children mentioned above—a dandy who did nothing but swagger around the Italian quarter.

Generally each *capo maestra* works for himself with his own handful of followers, who may or may not enjoy his confidence, and each gang has its own territory, held sacred by the others. The leaders all know each other, but never trespass upon the others' preserves, and rarely attempt to blackmail or terrorize any one but Italians. They gather around them associates from their own part of Italy, or the sons of men whom they have known at home. Thus for a long time Costabili was leader of the Calabrian Camorra in New York, and held undisputed sway of the territory south of Houston Street as far as Canal Street and from Broadway to the East River. On September 15, last, Costabili was caught with a bomb in his hand, and he is now doing a three-year bit up the river. *Sic transit gloria mundi!*

The Italian criminal and his American offspring

have a sincere contempt for American criminal law. They are used by experience or tradition to arbitrary police methods and prosecutions unhampered by Anglo-Saxon rules of evidence. When the Italian crook is *actually brought to the bar of justice* at home, that he will "go" is generally a foregone conclusion. There need be no complainant in Italy. The government is the whole thing there. But, in America, if the criminal can "reach" the complaining witness or "call him off" he has nothing to worry about. This he knows he can easily do through the terror of the Camorra. And thus he knows that the chances he takes are comparatively small, including that of conviction if he is ever tried by a jury of his American peers, who are loath to find a man guilty whose language and motives they are unable to understand. All this the young Camorrist is perfectly aware of and gambles on.

One of the unique phenomena of the Mala Vita in America is the class of Italians who are known as "men of honor." These are native Italians who have been convicted of crime in their own country and have either made their escape or served their terms. Some of these may have been counterfeiters at home. They come to America either as stokers, sailors, stewards, or stowaways, and, while they can not get passports, it is surprising how lax the authorities are in permitting their escape. The spirit of the Italian law is willing enough, but its fleshly enforcement is curiously weak. Those who have money enough manage to reach France or Holland and come over

first or second-class. The main fact is that they get here—law or no law. Once they arrive in America, they realize their opportunities and actually start in to turn over a new leaf. They work hard; they become honest. They may have been Camorristi or Mafiusi at home, but they are so no longer. They are “on the level,” and stay so; only—they are “men of honor.” And what is the meaning of that? Simply that they keep their mouths, eyes, and ears shut so far as the Mala Vita is concerned. They are not against it. They might even assist it passively. Many of these erstwhile criminals pay through the nose for respectability—the Camorrist after his kind, the Mafius’ after his kind. Sometimes the banker who is paying to a Camorrist is blackmailed by a Mafius’. He straightway complains to his own bad man, who goes to the “butter-in” and says in effect: “Here! What are you doing? Don’t you know So-and-So is under my protection?”

“Oh!” answers the Mafius’. “Is he? Well, if that is so, I’ll leave him alone—as long as he is paying for protection *by somebody*.”

The reader will observe how the silence of “the man of honor” is not remotely associated with the Omertà. As a rule, however, the “men of honor” form a privileged and negatively righteous class, and are let strictly alone by virtue of their evil past.

The number of south Italians who now occupy positions of respectability in New York and who have criminal records on the other side would astound even their compatriots. Even several well-known busi-

ness men, bankers, journalists, and others have been convicted of something or other in Italy. Occasionally they have been sent to jail; more often they have been convicted in their absence—*condannati in contumacia*—and dare not return to their native land. Sometimes the offences have been serious, others have been merely technical. At least one popular Italian banker in New York has been convicted of murder—but the matter was arranged at home so that he treats it in a humorous vein. Two other bankers are fugitives from justice, and at least one editor.

To-day most of these men are really respectable citizens. Of course some of them are a bad lot, but they are known and avoided. Yet the fact that even the better class of Italians in New York are thoroughly familiar with the phenomena surrounding the Mala Vita is favorable to the spread of a certain amount of Camorrist activity. There are a number of influential bosses, or *capi maestra*, who are ready to undertake almost any kind of a job for from twenty dollars up, or on a percentage. Here is an illustration.

A well-known Italian importer in New York City was owed the sum of three thousand dollars by another Italian, to whom he had loaned the money without security and who had abused his confidence. Finding that the debtor intended to cheat him out of the money, although he could easily have raised the amount of the debt had he so wished, the importer sent for a Camorrist and told him the story.

"You shall be paid," said the Camorrist.

Two weeks later the importer was summoned to a cellar on Mott Street. The Camorrist conducted him down the stairs and opened the door. A candle-end flaring on a barrel showed the room crowded with rough-looking Italians and the debtor crouching in a corner. The Camorrist motioned to the terrified victim to seat himself by the barrel. No word was spoken and amid deathly silence the man obeyed. At last the Camorrist turned to the importer and said:

"This man owes you three thousand dollars, I believe."

The importer nodded.

"Pay what you justly owe," ordered the Camorrist.

Slowly the reluctant debtor produced a roll of bills and counted them out upon the barrel-head. At five hundred he stopped and looked at the Camorrist.

"Go on!" directed the latter.

So the other, with beads of sweat on his brow, continued until he reached the two thousand-dollar mark. Here the bills seemed exhausted. The importer by this time began to feel a certain reticence about his part in the matter—there might be some widows and orphans somewhere. The bad man looked inquiringly at him, and the importer mumbled something to the effect that he "would let it go at that." But the bad man misunderstood what his client had said and ordered the bankrupt to proceed. So he did proceed to pull out another thou-

sand dollars from an inside pocket and add it to the pile on the barrel-head. The Camorrist nodded, picked up the money, recounted it, and removed three hundred dollars, handing the rest to the importer.

"I have deducted the *camorra*," said he.

The bravos formed a line along the cellar to the door, and, as the importer passed on his way out, each removed his hat and wished him a *buona sera*. That importer certainly will never contribute toward a society for the purpose of eradicating the "Black Hand" from the city of New York. He says it is the greatest thing he knows.

But the genuine Camorrist or Mafius' would be highly indignant at being called a "Black Hander." His is an ancient and honorable profession; he is no common criminal, but a "man peculiarly sensitive in matters of honor," who for a consideration will see that others keep their honorable agreements.

The writer has received authoritative reports of three instances of extortion which are probably prototypes of many other varieties. The first is interesting because it shows a Mafius' plying his regular business and coming here for that precise purpose. There is a large wholesale lemon trade in New York City, and various growers in Italy compete for it. Not long past, a well-dressed Italian of good appearance and address rented an office in the World Building. His name on the door bore the suffix "Agent." He was, indeed, a most effective one, and he secured practically all the lemon business among the Italians

for his principals, for he was a famous *capo mafia*, and his customers knew that if they did not buy from the growers under his "protection" that something might, and very probably would, happen to their families in or near Palermo. At any rate, few of them took any chances in the matter, and his trip to America was a financial success.

In much the same way a notorious crook named Lupo forced all the retail Italian grocers to buy from him, although his prices were considerably higher than those of his competitors.

Even *Americans* have not been slow to avail themselves of Camorrist methods. There is a sewing-machine company which sells its machines to Italian families on the instalment plan. A regular agent solicits the orders, places the machines, and collects the initial dollar; but the moment a subscriber in Mulberry Street falls in arrears his or her name is placed on a black list, which is turned over by this enterprising business house to a "collector," who is none other than the leading Camorrist, "bad man," or Black Hand of the neighborhood. A knock on the door from his fist, followed by the connotative expression on his face, results almost uniformly in immediate payment of all that is due. Needless to say, he gets his *camorra*—a good one—on the money that otherwise might never be obtained.

It is probable that we should have this kind of thing among the Italians in America even if the Neapolitan Camorra and the Sicilian Mafia had never existed, for it is the precise kind of crime that seems

to be spontaneously generated among a suspicious, ignorant, and superstitious people. The Italian is keenly alive to the dramatic, sensational, and picturesque; he loves to intrigue, and will imagine plots against him when none exists. If an Italian is late for a business engagement the man with whom he has his appointment will be convinced that there is some conspiracy afoot, even if his friend has merely been delayed by a block on the subway. Thus, he is a good subject for any wily Iago that happens along. The Italians in America are the most thrifty of all our immigrant citizens. In five years their deposits in the banks of New York State amounted to over one hundred million dollars. The local Italian crooks avail themselves of the universal fear of the vendetta, and let it be generally known that trouble will visit the banker or importer who does not "come across" handsomely. In most cases these Black Handers are ex-convicts with a pretty general reputation as "bad men." It is not necessary for them to phrase their demands. The tradesman who is honored with a morning call from one of this gentry does not need to be told the object of the visit. The mere presence of the fellow is a threat; and, if it is not acceded to, the front of the building will probably be blown out by a dynamite bomb in the course of the next six weeks—whenever the gang of which the bad man is the leader can get around to it. And the bad man may perhaps have a still badder man who is preying upon *him*. Very often one of these leaders or bosses will run two or three groups, all operating

at the same time. They meet in the back rooms of saloons behind locked doors, under pretence of wishing to play a game of *zecchinetta* unmolested, or in the gloaming in the middle of a city park or undeveloped property on the outskirts. There the different members of the gang get their orders and stations, and perhaps a few dollars advance wages. It is naturally quite impossible to guess the number of successful and unsuccessful attempts at blackmail among Italians, as the amount of undiscovered crime throughout the country at large is incomputable. No word of it comes from the lips of the victims, who are in mortal terror of the vendetta—of meeting some casual stranger on the street who will significantly draw the forefinger of his right hand across his throat.

There is rather more chance to find and convict a kidnapper than a bomb-thrower, so that, as a means of extortion, child-snatching is less popular than the mere demand for the victim's money or his life. On the other hand it is probably much more effective in accomplishing its result. But America will not stand for kidnapping, and, although the latter occurs occasionally, the number of cases is insignificant compared with those in which dynamite is the chief factor. In 1908, there were forty-four bomb outrages reported in New York City. There were seventy arrests and nine convictions. During the present year (1911) there have been about sixty bomb cases, but there have been none since September 8, since Detective Carrao captured Rizzi, a *picciott'*, in the act

of lighting a bomb in the hallway of a tenement house.

This case of Rizzi is an enlightening one for the student of social conditions in New York, for Rizzi was no Orsini, not even a Guy Fawks, nor yet was he an outlaw in his own name. He was simply a *picciott'* (pronounced "pish-ot") who did what he was told in order that some other man who did know why might carry out a threat to blow up somebody who had refused to be blackmailed. It is practically impossible to get inside the complicated emotions and motives that lead a man to become an understudy in dynamiting. Rizzi probably got well paid; at any rate, he was constantly demonstrating his fitness "to do big things in a big way," and he received into the small company of the elect—to go forth and blackmail on his own hook and hire some other *picciott'* to set off the bombs.

Whoever the *capo maestra* that Rizzi worked for, he was not only a deep-dyed villain, but a brainy one. The gang hired a store and pretended to be engaged in the milk business. They carried the bombs in the steel trays holding the milk bottles and cans, and, in the costume of peaceful vendors of the lacteal fluid, they entered the tenements and did their damage to such as failed to pay them tribute. The manner of his capture was dramatic. A real milkman for whom Rizzi had worked in the past was marked out for slaughter. He had been blown up twice already. While he slept his wife heard some one moving in the hall. Looking out through a small window,

she saw the ex-employee fumble with something and then turn out the gas on the landing. Her husband, awakened by her exit and return, asked sleepily what the matter was.

"I saw Rizzi out in the hall," she answered. "It was funny—he put out the light!"

In a moment the milkman was out of bed and gazing, with his wife, into the street. They saw Rizzi come down with his tray and pass out of sight. So did a couple of Italian detectives from Head-quarters who had been following him and now, at his very heels, watched him enter another tenement, take a bomb from his tray, and ignite a time fuse. They caught him with the thing alight in his hand. Meanwhile the other bomb had gone off and blown up the milkman's tenement.

There is some ancient history in regard to these matters which ought to be retold in the light of modern knowledge; for example, the case of Patti, the Sicilian banker. He had a prosperous institution in which were deposited the earnings of many Italians, poor and wealthy. Lupo's gang got after him and demanded a large sum for "protection." But Patti had a disinclination to give up, and refused. At the time his refusal was attributed to high civic ideals, and he was lauded as a hero. Anyhow, he defied the Mafia, laid in a stock of revolvers and rifles, and rallied his friends around him. But the news got abroad that Lupo was after Patti, and there was a run on Patti's bank. It was a big run, and some of the depositors gesticulated and threatened—for Patti

couldn't pay it all out in a minute. Then there was some kind of a row, and Patti and his friends (claiming that the Mafia had arrived) opened fire, killing one man and wounding others. The newspapers praised Patti for a brave and stalwart citizen. Maybe he was. After the smoke had cleared away, however, he disappeared with all his depositors' money, and now it has been discovered that the man he killed was a *depositor* and not a Black Hand. The police are still looking for him.

This case seems a fairly good illustration of the endless opportunity for wrong-doing possible in a state of society where extortion is permitted to exist—where the laws are not enforced—where there is a "higher" sanction than the code. Whether Patti was a good or a bad man, he might easily have killed an enemy in revenge and got off scot-free on the mere claim that the other was blackmailing him; just as an American in some parts of our country can kill almost anybody and rely on being acquitted by a jury, provided he is willing to swear that the deceased had made improper advances to his wife.

The prevention of kidnapping, bomb-throwing, and the other allied manifestations of the Black Hand depends entirely upon the activity of the police—particularly the Italian detectives, who should form an inevitable part of the force in every large city. The fact of the matter is that we never dreamed of a real "Italian peril" (or, more accurately, a real "Sicilian peril") until about the year 1900. Then we woke up to what was going on—it had already gone

a good way—and started in to put an end to it. Petrosino did put an end to much of it, and at the present time it is largely sporadic. Yet there will always be a halo about the heads of the real Camorristi and Mafiosi—the Alfanos and the Rapis—in the eyes of their simple-minded countrymen in the United States.

Occasionally one of these big guns arrives at an American port of entry, coming first-class via Havre or Liverpool, having made his exit from Italy without a passport. Then the Camorristi of New York and Brooklyn get busy for a month or so, raising money for the boys at home and knowing that they will reap their reward if ever they go back. The popular method of collecting is for the principal *capo maestra*, or temporary boss of Mulberry Street, to “give” a banquet at which all “friends” must be present—at five dollars per head. No one cares to be conspicuous by reason of his absence, and the hero returns to Italy with a large-sized draft on Naples or Palermo.

Meanwhile the criminal driven out of his own country has but to secure transportation to New York to find himself in a rich field for his activities; and once he has landed and observed the demoralization often existing from political or other reasons in our local forces of police and our uncertain methods of administering justice (particularly where the defendant is a foreigner), he rapidly becomes convinced that America is not only the country of liberty but of license—to commit crime.

Most Italian crooks come to the United States not merely some time or other, but *at intervals*. Practically all of the Camorrist defendants on trial at Viterbo have been in the United States, and all will be here soon again, after their discharge, unless steps are taken to keep them out. Luckily, it is a fact that so much has been written in American newspapers and periodicals in the past few years about the danger of the Black Hand and the criminals from south Italy that the authorities on the other side have allowed a rumor to be circulated that the climate of *South America* is peculiarly adapted to persons whose lungs have become weakened from confinement in prison. In fact, at the present time more Italian criminals seek asylum in the Argentine than in the United States. Theoretically, of course, as no convict can procure a passport, none of them leave Italy at all—but that is one of the humors of diplomacy. The approved method among the continental countries of Europe of getting rid of their criminals is to induce them to “move on.” A lot of them keep “moving on” until they land in America.

Of course, the police should be able to cope with the Black Hand problem, and, with a free use of Italian detectives who speak the dialects and know their quarry, we may gradually, in the course of fifteen years or so, see the entire disappearance of this particular criminal phenomenon. But an ounce of prevention is worth several tons of cure. Petrosino claimed—not boastfully—that he could, with proper deportation laws behind him, exterminate the

Black Hand throughout the United States in *three* months.

But, as far as the future is concerned, a solution of the problem exists—a solution so simple that only a statesman could explain why it has not been adopted long years ago. The statutes in force at Ellis Island permit the exclusion of immigrants who have been guilty of crimes involving moral turpitude in their native land, but do not provide for the compulsory production of the applicants' "penal certificate" under penalty of deportation. Every Italian emigrant is obliged to secure a certified document from the police authorities of his native place, giving his entire criminal record or showing that he has had none, and without it he can not obtain a passport. For several years efforts have been made to insert in our immigration laws a provision that every immigrant from a country issuing such a certificate *must* produce it before he can be sure of admission to the United States. If this proposed law should be passed by Congress the exclusion of Italian criminals would be almost automatic. But if it or some similar provision fails to become law, it is not too much to say that we may well anticipate a Camorra of some sort in every locality in our country having a large Italian population. Yet government moves slowly, and action halts while diplomacy sagely shakes its head over the official cigarette.

A bill amending the present law to this effect has received the enthusiastic approval of the immigration authorities and of the President. At first the

Italian officials here and abroad expressed themselves as heartily in sympathy with this proposed addition to the excluded classes; but, once the bill was drawn and submitted to Congress, some of these same officials entered violent protests against it, on the ground that such a provision discriminated unfairly against Italy and the other countries issuing such certificates. The result of this has been to delay all action on the bill which is now being held in committee. Meanwhile the Black Hander is arriving almost daily, and we have no adequate laws to keep him out.

## **APPENDIX**



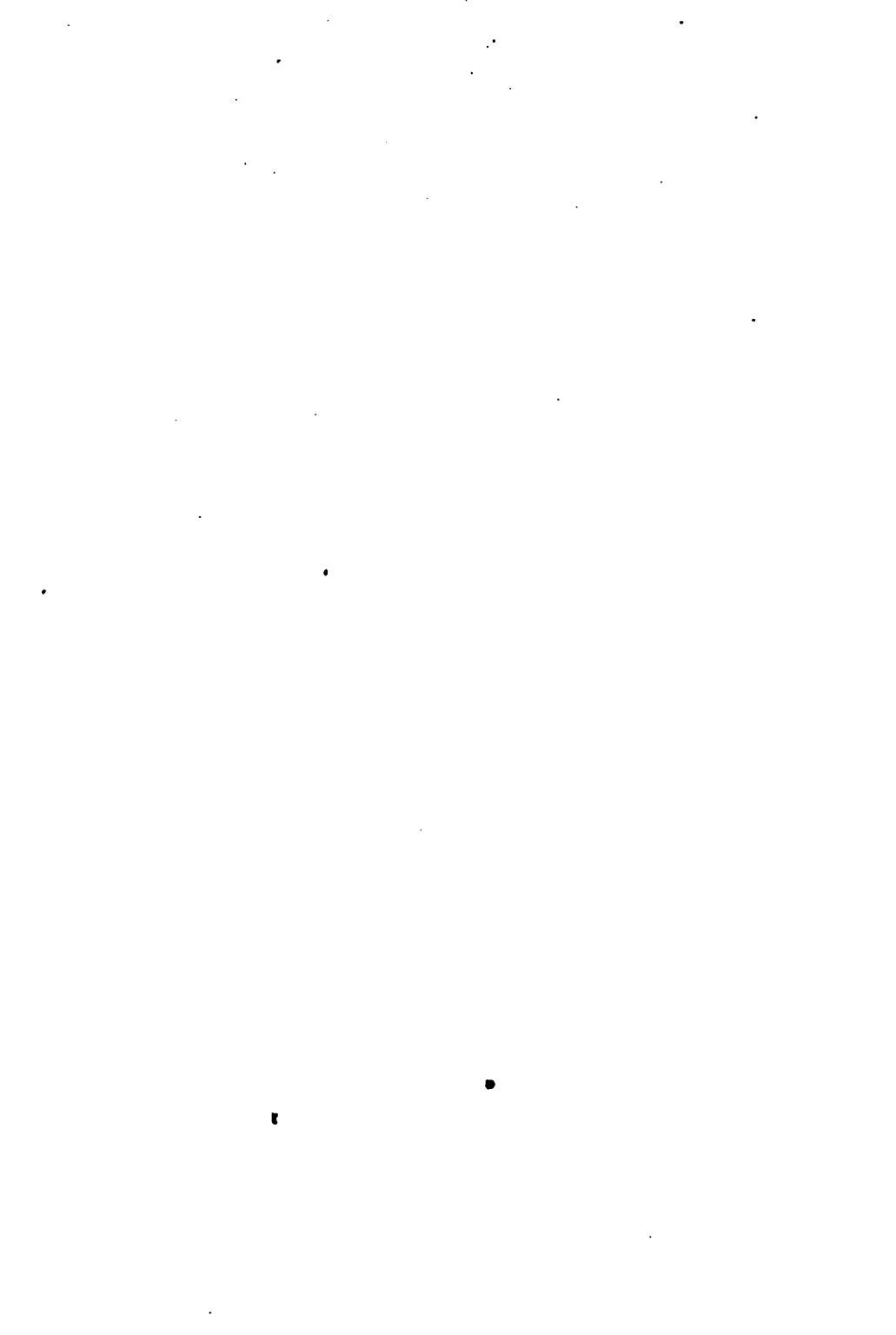
## APPENDIX

ANXIOUS for the actual facts, the writer asked an Italian friend to secure an interview with Cavalier Tarantelli, Questor of Florence, who for a long time was a functionary of the Public Safety in Naples, and testified in this capacity, at Viterbo, on August 9, 1911. In discussing the power of the Camorra, the Questor, after having given it as his opinion that the actual criminal organization had lost most of its unity, said: "At present there exist what are called '*combricole di quartiere*' (*conventicles of the quarters*) small secret associations of 'camorristi' belonging to the same quarter of Naples. Naturally the different *combricole* in the different quarters of Naples assist each other, as likewise do the different chiefs of the quarters. Perhaps there is still a kind of hierarchy among the chiefs as there may still exist a hierarchy among the 'camorristi' in the different quarters. These 'camorristi' are, as a rule, bad characters, whose chief characteristics are immorality and overbearing insolence, and who live accordingly. They impose upon women and get money out of them; they practice usury; they receive and hide stolen things. Naples has now a special and intense criminality. The 'camorristi' are at present almost all habitual criminals. But the real so-called 'act of camorra' (*atto d'camorra*) is *extortion*, namely, a price imposed upon those who fear individual or collective imposition, either occult or open, on the part of the 'Camorra.' Every morning a 'camorrista' will go to the shopkeepers and tradesmen of the quarter (*quartiere*) and collect the price paid by him to be let alone. There are instances even nowadays of people who go to the chief 'camorrista' of their quarter in order to have their persons and property protected. This protection, however, is now more apparent than real. For instance, it is much more difficult now than it was formerly to find people who try to recover stolen property

by having recourse to the 'Camorra' rather than to the police. The 'camorristi' are extremely numerous in Naples; at funeral processions, for example, you may see thousands of them. Songs are sung beneath the windows of prisons by the friends and relatives of the prisoners as a means of communicating with the latter. But this custom of 'the songs' is now disappearing and the same may be said of the 'dichiaramenti' (kinds of challenges), and of the tribunal of the 'Camorra.' Some large meetings of 'camorristi' still take place now and then. They will meet in some deserted place in the country far away from the city or among the mountains. I shall not deny that the judiciary of Naples is somewhat different from that of Northern Italy. The former is sometimes exceedingly indulgent, perhaps corrupt; that will explain the influence of the 'Camorra.' It is no exaggeration to state that magistrates in Naples are at times in awe of the 'camorristi,' and especially of their friends who always appear as perfectly honorable persons. It is a fact that the police now endeavor to destroy the 'Camorra,' a thing which they would not even have dreamt of a few years ago, and we must not forget that the police consist for the most part of men from the South of Italy. That there are officials and agents taking bribes from secret associations for delinquency is well known, but, of course, that does not occur in Naples or in Italy alone. In Naples the 'Camorra' places itself at the disposal of those who pay it, even in the case of elections. As a rule, it is the candidates of the conservative parties who avail themselves of the 'Camorra.' Thus, you see, even ministers and prefects may avail themselves of it! At all events, these deplorable facts are becoming less and less frequent. Let us hope they may completely disappear! To the Socialist party, however, must be given the credit of fighting against the 'Camorra' to the best of its ability."

This is an extraordinary admission for a public functionary to make, and it is only fair to the Questor to state that his interview was not made intentionally for publication. It is what would be called in law an "admission against interest" and is evidence of the weightiest character. One can read between the lines that he but hints at the real state of things.

His opinion that the solidarity of the Camorra has been greatly weakened seems to be borne out by many other evidences. For example, the depositions of the informer Abatemaggio are filled with detailed accounts of how various local "camorristi" quarrelled over the division of their petty spoils, tricked and cheated one another, and often betrayed each other to the police. The day of the real camorrista,—he of the swift dagger, the man of "heart,"—seems to be over and to have given place to an era of filthy traders in vice, petty grafters, blackmailers, and cheap thieves. But popular imagination still surrounds these with the halo of romance and regards the Camorra as "the friend of the people."







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